



**Statement by**

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**Before the**

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Committee on Homeland Security and  
Governmental Affairs  
United States Senate**

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Chairman Portman, Ranking Member McCaskill, and members of the Subcommittee, thank you for inviting me to discuss the Department of Health and Human Services' (HHS) responsibilities regarding unaccompanied children. We have been working with you and your staff on your investigation into the Unaccompanied Children's Program since July. We appreciate your interest in ensuring this program meets its critical goal of providing for appropriate care of unaccompanied children. As I will describe in more detail in my testimony, the number of children referred to ORR's care over the last number of years has grown significantly. HHS has worked hard to adapt to this rapid increase in the size of the program, bringing on additional staff and expanding its network of providers. HHS also has adjusted a number of its policies to more efficiently and effectively respond to unexpected fluctuations in migration, while also maintaining the highest possible standards of care for this vulnerable population. The Marion, Ohio labor trafficking case demonstrates the vulnerability of these children. We are committed to releasing each unaccompanied child to an appropriate sponsor who will provide for the best interest of the child while the child's immigration case proceeds. We continually work to strengthen our policies and operations in this regard. In my testimony today, I will describe the role that HHS plays in relation to unaccompanied children under Federal law, the process by which HHS identifies and vets suitable sponsors of unaccompanied children, the circumstances under which post-release services are made available to unaccompanied children and their sponsors, and HHS's efforts to combat human trafficking.

### **Role of the Office of Refugee Resettlement**

Unaccompanied children are referred to the HHS Office of Refugee Resettlement's (ORR) Unaccompanied Children Program in the Administration of Children and Families by other federal agencies, usually the Department of Homeland Security (DHS). Most unaccompanied

children arrive at the southern border. Upon apprehension, DHS refers a child to ORR within 72 hours, except in exceptional circumstances, after determining that the child is an unaccompanied child.

Since 2003, the Unaccompanied Children Program has cared for more than 190,000 children.

The number of unaccompanied children referred to the program each year was generally in the range of 6,000 to 7,000 until fiscal year (FY) 2012. Those numbers increased from 13,625 in FY 2012 to 24,668 in FY 2013 and 57,496 in FY 2014. In FY 2015, 33,726 unaccompanied children were placed in ORR's care.

#### *Demographics and Reason for Leaving their Country of Origin*

Most children referred to the Unaccompanied Children Program, both historically and currently, are from Honduras, Guatemala, and El Salvador. Historically, the great majority of unaccompanied children were males over the age of 14. While older males still comprise the majority of the population, in recent years, the shares that are female and younger, respectively, have both increased. Between 2012 and 2015, the share of unaccompanied children who are female has grown from 23 percent to 32 percent, and the share of children 12 and under has grown from 11 percent to 17 percent. In addition, in 2012 only one percent of children referred to us were ages five and under while in 2015 this number rose to three percent.

There are a number of reasons that unaccompanied children embark on the dangerous journey from their countries of origin to the United States. Some of these children are fleeing from poverty and violence in their home country, seeking to rejoin family members already here, and/or hoping to find work to support their families in their home countries. The age of these unaccompanied children, their separation from parents and relatives, and the perilous journey

they undertake make them especially vulnerable to human trafficking, exploitation, and abuse on their way to the United States.

### *Care of Children in ORR's Custody*

ORR's care and placement of unaccompanied children is governed by established child welfare protocols as well as federal statutes and obligations, including the *Flores Settlement*. When unaccompanied children are referred to ORR, they generally are cared for in one of a network of ORR-funded shelters while staff works to determine if they have appropriate sponsors with whom they can live while awaiting immigration proceedings.

Soon after a child arrives at a shelter, trained staff conduct an initial interview. This interview is a first round of HHS screening and is used to determine, among other things, whether the child may be a victim of abuse, a crime, or human trafficking. The screening may also indicate if the child has any immediate medical or mental health needs. If a mental health concern is detected during this screening, such as a history of trauma or violence, additional screenings are completed by specially-trained mental health clinical staff or case managers with clinical experience.

Unaccompanied children remain in ORR's care and custody until they are released to a parent, family member, or other qualified sponsor in the United States, are repatriated to their home country, obtain legal status, or turn 18 years old (at which time they are transferred to the custody of DHS).

## **Safe and Timely Release Policies and Procedures**

Under the *Flores* settlement agreement, HHS is required to provide for the timely release of children and youth to qualified parents, guardians, relatives or other adults, referred to by ORR as “sponsors,” subject to certain considerations, such as danger to self or the community and risk of flight. Upon release, a child is cared for by the sponsor while his or her immigration case is processed.

The process for safe and timely release of an unaccompanied child from ORR custody involves many steps. ORR is continuously working to strengthen those policies and procedures and, as described below, has in the last year instituted a number of enhancements to pre-release screening of sponsors and post-release services available to both children and their sponsors.

### *Identification of Potential Sponsors*

As soon as an unaccompanied child enters ORR’s care, ORR begins the process of locating family members and others who may be qualified to care for the child. Parents, other relatives, or family friends can apply to have the child released to their care.

A case manager at the ORR-funded care provider facility interviews the child as well as the potential sponsor, whether it be a parent, legal guardians, and/or family members, in order to identify qualified sponsors. The *Flores Settlement* establishes an order of priority for sponsors with whom children should be placed. The first preference for placement is with a parent of the child. If a parent is not available, the preference is for placement with the child’s legal guardian, and then to various adult family members, then to a family friend. ORR follows this order of

priority in making placement decisions. In FY 2015, 93 percent of children released to a sponsor were released to a family member.

### *Application Process*

Within 24 hours of identifying a potential sponsor, a case manager at the care provider facility sends the potential sponsor a packet with the *Family Reunification Application* and related documents. All potential sponsors must complete this application.<sup>1</sup>

The sponsor is required to sign the application, affirming that the information contained in the application is correct, and that the sponsor will abide by the care instructions in the *Sponsor Care Agreement*, provide for the physical and mental well-being of the minor, and comply with state laws regarding care of the minor. By signing the *Sponsor Care Agreement*, the sponsor agrees to, among other things, provide for the physical and mental well-being of the minor and notify local law enforcement and/or child protective services if the minor has been or is at risk of being abused, abandoned, neglected or maltreated, or has disappeared. Additionally, the sponsor must notify relevant agencies of any change of address or phone number and agree to ensure the minor's presence at all future appearances before DHS's U.S. Immigration and Customs Enforcement (ICE) and the Department of Justice's Executive Office for Immigration Review (EOIR).<sup>2</sup>

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<sup>1</sup> A copy of the application is available at <http://www.acf.hhs.gov/programs/orr/resource/unaccompanied-childrens-services>.

<sup>2</sup> A copy of the *Sponsor Care Agreement* is available at <http://www.acf.hhs.gov/programs/orr/resource/unaccompanied-childrens-services>.

## **Evaluation of the Suitability of the Sponsor**

In addition to completing and signing the *Family Reunification Application*, a sponsor must provide information and supporting documentation so that ORR can verify his or her identity and relationship, if any, to the child in ORR's care. 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 wellbeing 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 and Sponsor Assessment*

Potential sponsors for unaccompanied children are required to undergo background checks and complete a sponsor assessment process. ORR has recently enhanced its policies, requiring additional checks for sponsors and others who are likely to come into contact with the child post-release. All potential sponsors and individuals identified in the sponsor care agreement (the "back-up" sponsor identified by the potential sponsor who will care for the child in the event the potential sponsor is unable to), must complete a criminal public record check, based on the sponsor's name and address, and a sex offender registry check. 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. Fingerprint checks are also required for individual sponsors, and individuals identified in a sponsor care plan, 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 in any case in which 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. (For a discussion of how ORR uses information received from these background checks in conjunction with other information from the assessments and home visits to make a placement decision, see "Sponsor Release Decisions" below.)

### *Unaccompanied Child Assessment*

Each child is screened by a case worker during the initial ORR intake process to determine, among other things, if there are indications that he or she may be a victim of trafficking or



abuse, have a disability, or have mental health needs, such that additional services might be appropriate. Staff at the ORR-funded care provider conduct a more thorough assessment, covering biographic, family, legal/migration, medical, substance use, and mental health history. 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.

### *Screening Unaccompanied Children for Human Trafficking*

As described above, 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. Most unaccompanied children are also screened by an ORR-funded legal service provider to determine whether the child may be eligible for potential legal relief, including a T-visa. A child who is found to be a victim of a severe form of trafficking is not placed with a sponsor until a home study has been conducted, and that child receives post-release services, which are described in more detail below. Additionally, foreign-born minors who are unaccompanied, including unaccompanied children, who are victims of a severe form of trafficking may apply for an HHS-issued Eligibility Letter for federally-funded refugee benefits and services, which may include eligibility for ORR's Unaccompanied Refugee Minors (URM) program. Unaccompanied children referred to the URM program are placed in licensed foster homes, group care, independent living, residential treatment settings or other care settings according to individual needs. An appropriate court awards legal responsibility to the state, county, or private agency providing services, to act in place of the child's unavailable parents.

In FY 2015, HHS issued 240 Eligibility Letters to children, most of whom were unaccompanied children. This was a 10 percent increase from the 219 Eligibility Letters issued in FY 2014 and a 110 percent increase from the 114 Eligibility Letters issued in FY 2013. The top four countries of origin of child victims who received Eligibility Letters in FY 2015 were Mexico, Guatemala, El Salvador, and Honduras.

### *Home Studies*

Some children will not be released to a sponsor until a home study is conducted. 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 background checks of the sponsor and adult household members, home visit(s), in-person sponsor interview and possibly interviews with other household members, and post-release services. The TVPRA requires a home study for "a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in 42 U.S.C. § 12102(2)), a child who 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 a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence."<sup>3</sup>

Additionally, as of July 27, 2015, home studies are required for all children 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. Effective July 1, 2015, ORR implemented

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<sup>3</sup> 8 U.S.C. § 1232(c)(3)(B) (also requiring that ORR conduct follow-up services, during the pendency of removal proceedings, on children for whom a home study was conducted).

mandatory home studies for all children ages 12 and under, being released to non-relative or distantly related sponsors through a pilot program.

### *Review of Household Members*

ORR's longstanding policy has been to conduct background checks on other individuals living with the potential sponsor ("household members") when a home study is conducted. ORR recently revised this policy so that all household members are subject to background checks in all cases. Specifically, public records checks and sex offender registry checks are now conducted for all adult household members. Fingerprint background checks of the Federal Bureau of Investigation's (FBI) national criminal history and state repository records, which includes DHS arrest records, are conducted for adult household members where a public records check reveals possible disqualifying factors; or where there is a documented risk to the safety of the unaccompanied child, the child is especially vulnerable, and/or the case is being referred for a mandatory home study. Child Abuse and Neglect (C/AN) checks are conducted of adult household members in any case where a special concern is identified. Finally, state criminal history repository checks and/or local police checks are conducted adult household members on a case-by-case basis when there is an unresolved criminal arrest or issue that is still in process.

### *Decision Process for Releasing a Child to a Sponsor*

The release decision process involves multi-layer reviews and recommendations by care provider staff, non-governmental third-party reviewers (Case Coordinators), and ORR Federal Field Specialists (FFS). ORR makes the final decision regarding an unaccompanied child's placement with a sponsor.

The decision is based on the best interest of the child, taking into account the totality of the circumstances. ORR will deny release to a potential sponsor 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. ORR's policies provide guidance regarding the types of criminal history that may be a basis for denying release. Recently, ORR has enhanced its policies, requiring release to be denied 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 1) has been convicted of a certain felonies, including a crime against a child, a violent crime, drug-related offenses, or trafficking; or has a criminal history or pending criminal charges or child welfare adverse findings from which one could reasonably infer that the sponsor's ability to ensure the safety and well-being of the child is compromised; or 2) has certain substantiated adverse child welfare finding, for example, severe or chronic abuse and neglect. Similarly, ORR will reject any sponsor care plans that identify an adult caregiver who has any of the disqualifying criteria. It is not the practice of ORR to place children with sponsors who have serious criminal convictions.

### *Planning for Post-Release*

Throughout the release process, care providers work with the child and sponsor so that they can plan for the child's needs after he or she is released to a sponsor. Additionally, as described above, the sponsor agrees to comply with the provisions of the *Sponsor Care Agreement* as part of the application process.

The care provider also provides the sponsor with a Sponsor Handbook that outlines the responsibilities for caring for the unaccompanied child's needs, including providing for the child's education and health, obtaining legal guardianship, finding support to address traumatic stress, and keeping the child safe from child abuse, neglect, trafficking, and exploitation. The Handbook reiterates the importance of continuing to comply with immigration proceedings and includes links to EOIR's website and forms. The Handbook also discusses laws related to employment to inform sponsors that unaccompanied children are not authorized to work while their immigration proceedings are on-going.

In May 2015, ORR expanded 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.

The care provider notifies ICE and EOIR of the child's discharge date and change of address and venue, as applicable. The care provider coordinates with the legal service provider or attorney of record to help complete the necessary legal forms.

## **Post-Release Services**

ORR is responsible for providing care to children referred by immigration authorities until they are placed with an adult family member or responsible adult sponsor. Once custody has been transferred to a sponsor, the care and well-being of the child becomes the responsibility of the sponsor.

Under the TVPRA of 2008, ORR offers follow-up services or “post-release services” in cases where there has been a home study. Additionally, 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 assess implementation of an expansion of 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.

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.

In August 2015, ORR began conducting check-in telephone calls with sponsors and the unaccompanied child in their care, thirty 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.

### **HHS's Efforts Related to Trafficking**

ACF works with Federal partners on several trafficking prevention initiatives including providing targeted training for human service professionals working with high-risk populations including child welfare, runaway and homeless youth, domestic violence, and Native American community organizations. Consistent with its statutory authorities, HHS also serves a broad range of survivors of human trafficking: adults and children; foreign nationals (including lawful permanent residents) and U.S. citizens; and survivors of labor and commercial sexual exploitation. HHS has systematically worked to institutionalize anti-trafficking responses across its multiple programs and to increase coordination and collaboration within HHS and with federal partners by implementing the Federal Strategic Action Plan on Services to Victims of Human Trafficking in the United States.<sup>4</sup>

As part of HHS efforts to strengthen community-based safety nets for victims of trafficking and those at high risk for trafficking, HHS nearly doubled its funding to provide assistance to victims of human trafficking, raise public awareness, and train first responders since FY 2012. In FY 2015, we provided more than \$17 million in funding to support anti-trafficking programs, including training, victim identification, and response to trafficking in child welfare, runaway and homeless youth programs, domestic violence, and health care settings.

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<sup>4</sup> Available at <http://www.acf.hhs.gov/programs/endtrafficking/initiatives/federal-plan>.

In June 2015, ACF established the Office of Trafficking in Persons (OTIP) to reflect the importance of anti-trafficking work, to coordinate its programs on behalf of both foreign and domestic victims, and to strengthen its attention to policy and practice issues related to addressing trafficking across ACF.

HHS trains law enforcement, health and human service providers, and other first responders to increase the screening and identification of human trafficking through a network of grantees and through training provided through the National Human Trafficking Resource Center. OTIP Child Protection Specialists provide case consultations and specific training on the Child Eligibility process to ORR staff and shelter providers, case coordinators, community-based programs, child welfare agencies, and federal and local law enforcement. HHS is currently testing and validating a child trafficking screening tool to be used in child welfare and runaway and homeless youth settings, including systems that may serve foreign-born victims of trafficking and those at high risk for trafficking.

## **Conclusion**

ORR's goal is to ensure that all unaccompanied children are released to sponsors who can provide for their physical and mental well-being. As described above, in recent months ORR has made a number of enhancements to the pre-release screening process and has created additional resources, such as the hotline, for children post-release. We are mindful of our responsibilities to these children and are continually looking for ways to strengthen our safeguards. While I cannot discuss the specific details of the children in the Marion, Ohio case due to the ongoing criminal investigation, I welcome working with this Subcommittee and Congress in efforts to improve the Unaccompanied Children's Program for all of the children that we serve. Thank you for the



opportunity to discuss this critical issue with you. I am accompanied by my colleague, Bob Carey, who is the Director of ORR. Mr. Carey and I would be happy to answer any questions.