



**Statement of**

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**Before the**

**U.S. Senate Permanent Subcommittee on Investigations  
“Examining Efforts by HHS, DHS, and DOJ to Protect  
Unaccompanied Alien Children”**

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Chairman Portman and Ranking Member Carper, thank you for the opportunity to appear before this Subcommittee on behalf of the Department of Health and Human Services (HHS). I am Jonathan White, a career officer in the U.S. Public Health Service Commissioned Corps and have served in HHS in three administrations. I am presently assigned to the Office of the Assistant Secretary for Preparedness and Response (ASPR), and previously served as the Deputy Director of the Office of Refugee Resettlement (ORR) for the Unaccompanied Alien Children's (UAC) Program. I will provide an update on an interagency effort that HHS expects to have a positive impact on the work of the UAC program.

### **Checking the Background of Sponsors and their Cohabitants**

HHS has a process for placing UAC with parents or other sponsors that is designed to comply with the 1997 Flores Settlement Agreement, the Homeland Security Act of 2002 (HSA), and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), and ensures the care and safety of UAC referred to ORR.

### **Memorandum of Agreement with the Department of Homeland Security**

The Memorandum of Agreement (MOA) with the Department of Homeland Security (DHS), signed to become effective on June 7, 2018, is an enhancement to HHS policy to require fingerprint background checks for parents or other sponsors and other adults living in the household. The MOA also improves the process for the Departments to share information about UAC at the time of referral from U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection to ORR, while in the care and custody of ORR, and upon release from ORR care and custody. DHS and HHS recognize special attention is required to ensure the

transfer, placement, and release of UAC in a manner that is safe for the UAC and the communities into which they are released.

The MOA sets forth a process by which DHS will provide HHS with information necessary to conduct suitability assessments for sponsors using appropriate Federal, State, and local law enforcement and immigration sources. Specifically, ORR requires a background check of all potential sponsors, including parents and cohabitants. Under the MOA, ORR will transmit the fingerprints to DHS to perform criminal and immigration status checks on ORR's behalf. DHS will then submit the results to ORR.

The information sharing addressed in the MOA is consistent with the requirement of the TVPRA that the Secretaries of DHS and HHS "develop policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity." 8 U.S.C. § 1232(c)(1). In fact, the MOA provides a framework to implement the more specific mandate that upon request from the Secretary of HHS, the Secretary of DHS "shall provide information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement and immigration databases." 8 U.S.C. § 1232(c)(3)(C). The MOA does not address all appropriate coordination between DHS and HHS on UAC matters, nor is that the intent of it.

## **Joint Concept of Operations**

The DHS-HHS MOA of February 2016 called for the establishment of a working group comprised of UAC subject matter experts from both departments to address operational matters for inclusion in a Joint Concept of Operations (JCO). On July 31, 2018, the agencies completed the JCO, and I would like to highlight for you some of the significant matters covered in the JCO.

The JCO provides field guidance and standardization of interagency policies, procedures, and guidelines related to the processing of UAC encountered by DHS, whose care will be transferred to HHS, after being placed in removal proceedings pursuant to Section 240 of the Immigration and Nationality Act (INA). The JCO does not take the place of agency policy regarding the processing of UAC nor is it a substitute for legislative action, where required; rather it is an interagency agreement to standardize agency operational relations.

The JCO memorializes current practices for custody transfer and transportation, including the placement into and the discharge from ORR custody; immigration processing and influx matters; services requirements, such as medical evaluations and emergencies and the Flores minimum standards for HHS facilities; and the reporting of allegations of abuse. Cooperation between DHS and HHS regarding the transport, processing, placement, care, and discharge of UAC is essential. Both departments take their roles seriously and work closely with interagency and foreign counterparts on a daily basis to ensure the fulfillment both of DHS's mission to enforce federal law and HHS' mission to provide care and release consistent with the best interest of the child.

The agencies expect the JCO to be a “living document” that will change as laws, policies, and procedures change. HHS believes it is a significant component in the array of tools the agencies will use as we go forward in providing care and services to UAC.

### **Conclusion**

I would like to thank the Senators for their continued interest in the Administration’s efforts. We have had many productive and beneficial meetings discussing this with your staff and will continue to assist you in any way we can.

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. I would be happy to answer any questions you may have.