



**Statement of**

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**Before the**

**Committee on the Judiciary  
United States Senate**

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Chairman Grassley and Ranking Member Feinstein, it is my honor to appear before this Committee on behalf of the Department of Health and Human Services (HHS). I am Scott Lloyd, the Director of the Office of Refugee Resettlement (ORR) within the Administration for Children and Families (ACF). As the ORR Director, I coordinate the refugee resettlement efforts for HHS. I also oversee the Unaccompanied Alien Children (UAC) program. The UAC program provides care for children who come into the United States from other countries without a parent or legal guardian and without lawful immigration status. These children, defined by law as “unaccompanied alien children,” have multiple, sometimes inter-related reasons for coming to the United States, which may include rejoining family already in the United States, escaping violent communities or abusive family relationships in their home country, or finding work to support their families in the home country. UAC are most often referred to ORR by immigration authorities after they are apprehended trying to cross the border or at a later time in the interior of the United States.

Since joining ORR in late March, one of my top priorities has been to learn the complexities of the UAC program and the challenges it faces. I want ORR and our partners to do everything we can to provide for the safety and well-being of the children in our care. I also want to bring our partners together to tackle the safety concerns for the children and their communities after their release from ORR custody.

My testimony today will focus on ORR’s new Community Safety Initiative. I will also share improvements made to the program since February 2016, particularly in the areas of placement and sponsorship.

## **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) 2016, 59,170 children were referred to ORR from the Department of Homeland Security (DHS). During this time period, children typically stayed in our custody for 45 days. From October 1, 2016 through March 31, 2017, DHS referred approximately 30,000 children to ORR, the large majority of which occurred in the first quarter of the fiscal year. In fact, while referrals during the first quarter of FY 2017 were the highest first quarter referrals in the history of the program, referrals since January have dropped to a five-year low. In response to the decreased number of referrals, ORR has been working to reduce shelter capacity by closing the temporary shelters that operated earlier in FY 2017, and we are currently implementing further reductions in permanent shelter capacity. At this time, we have no temporary facilities open at Department of Defense locations, as the last one closed in February 2017. We continue to maintain the majority of our shelter capacity along the southern border.

In FY 2016, 95 percent of ORR's referred children came from Honduras, Guatemala, and El Salvador. Teenagers made up 82 percent of referrals in FY 2016. However, since FY 2014, we have seen an upward trend in the percentage of children referred who are five or younger.

We release the majority of UAC to sponsors. In FY 2016, ORR released 95 percent of children to a sponsor. Of these, we released 55 percent to parents, 36 percent to close relatives, and nine percent to distant relatives or non-relatives. During this period, we performed 3,540 home

studies and provided post-release services to over 10,500 children. This represented a significant increase from the 1,895 home studies performed and 8,618 UAC provided with post-release services in FY 2015.

### **Community Safety Initiative**

This year we have begun work in the area of community safety, which is one of the Administration's top priorities. I already had an eye on this issue when, within my first month at ORR, I was confronted with news reports of alleged violence amongst former UAC, which served to confirm what we already knew. While homeland security and juvenile justice are not ORR's areas of expertise, we cannot fulfill our mission with an approach that is neglectful of either. This prompted the creation of the ORR Community Safety Initiative. The goal of this initiative is two-fold: we want to equip UAC with the tools they need to stay safe from gangs like MS-13 and violence, and we want to ensure that the UAC we release from our care do not pose a danger to our communities. We have already taken a number of steps forward on the initiative.

First, we have expanded on our interagency work with DHS and the Department of Justice (DOJ). Our interagency partners have the expertise to share best practices and help us improve our current efforts. For example, DOJ is providing guidance to us on gang prevention programs for UAC and trainings for our staff and grantees. Local DHS staffs are training ORR post-release services providers on how to identify MS-13 and other gang colors and signs and who to notify if they become aware of MS-13 and other gang activity. Some of our Federal field specialists, who act as local ORR liaisons with care providers and stakeholders, have begun

attending local MS-13 task force meetings to strengthen partnerships with local law enforcement and stay informed about MS-13 and other gang activity in their areas. ORR plans to expand this effort.

I would note that ORR also shares information with its Federal partners as an additional means of reinforcing the safety of UACs as well as their participation in immigration proceedings. For example, ORR provides the Executive Office for Immigration Review (EOIR) with monthly UAC data, which EOIR uses through its Legal Orientation Program for Custodians (LOPC) of UAC to inform custodians of their responsibilities for their child's appearance at all immigration proceedings. In addition, at HHS request, EOIR's LOPC providers are distributing information on gang awareness and prevention. LOPC providers are also placing greater emphasis on the consequences of criminal activity for both the children and other members of their household.

Second, we are working to enhance our day-to-day consultations with DHS. Twenty-four hours before we release a UAC from custody, we notify DHS of the sponsor's identity, location, and relationship to the UAC, and we ask for DHS input regarding the safety of the release for the UAC and for the community. We notify DHS again 24 hours after the minor's release. We will continue to review and improve this consultation and communication with DHS. We are also reviewing the ways we communicate with DHS to strengthen ORR's decision-making on releases of UAC at higher risk of violence or criminal activity in the community where they are placed with a sponsor.

Third, when we release UAC from our care, we now alert sponsors to the potential danger of gang recruitment and activity so they are prepared to help the UAC avoid such dangerous activity. We recently added materials to our sponsor release packets to give sponsors information about gangs and preventing gang involvement.

Finally, we are increasing our efforts to assess the extent of gang involvement by UAC who are referred to ORR. We recently did a review of the UAC in our secure and staff secure facilities on June 9, 2017. From that review, we found that of the 138 UAC in those facilities on June 9, 35 were voluntarily involved with gangs. Four had reported that they had been forced into gang participation.

The Community Safety Initiative will continue to be a top priority for us. In the coming year, we hope to refine our screening tools to identify criminal involvement or intent, to further develop our partnerships with juvenile justice and law enforcement entities, and to put into place gang-prevention educational programs in our facilities.

### **Program Enhancements Since February 2016**

In addition to our activities under the Community Safety Initiative, we are assessing our policies and procedures through the lens of the safety of American communities as well as individual UAC. One of the first major policy changes I directed was an update to our policies on secure and staff secure care. We want to ensure that UAC needing heightened supervision or that present a danger to other UAC are appropriately placed within our network of care providers. The 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 secure) facilities.<sup>1</sup> The policies now address the situation of UAC who self-report MS-13 or other gang involvement. In determining whether to place UAC into secure care facilities, ORR now takes this self-disclosure into consideration.<sup>2</sup> 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. Senior ORR leadership now reviews all releases from secure and staff secure facilities, and I make the final release decision.<sup>3</sup>

Another important step in the safety of releases is to improve the assessment of sponsors. Prior to my arrival in ORR, the agency had made a number of improvements in this area. For example, to decrease the ability of sponsors to use fraudulent documents, ORR added guidance in January 2016, and further refined it in October and November 2016, on the types of documents ORR accepts as evidence of identity for the sponsor, the household members, and any adults listed in a sponsor care plan.<sup>4</sup> The guidance also clarified what constitutes acceptable

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<sup>1</sup> *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.” *See also* 8 U.S.C. § 1232(c)(2)(A) (describing the circumstances in which a UAC may be placed in a secure placement).

<sup>2</sup> *Id.* “In determining whether to place a youth in secure care, ORR considers if the unaccompanied alien child: . . . [h]as self-disclosed violent criminal history or gang involvement prior to placement in ORR custody that requires further assessment . . .”

<sup>3</sup> *ORR Guide: Children Entering the United States Unaccompanied*, § 2.7 “Recommendations and Decisions on Release.” (June 2017), <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.7>. “The ORR [Federal Field Specialist, who acts as local ORR liaisons with care providers and stakeholders], elevates release decisions to the ORR Director, or the Director’s designee, for any UAC in a secure or staff secure facility, or for any UAC who had previously been in a secure or staff secure facility. The ORR Director or designee makes release decisions for children in these types of facilities.”

<sup>4</sup> *ORR Guide: Children Entering the United States Unaccompanied*, § 2.2.4 “Required Documents for Submission with the Application for Release.” (November 2016), <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.2.4>.

documents to prove the sponsor’s address, the child’s identity, and the sponsor-child relationship.<sup>5</sup> ORR also added an alternative method to verify a sponsor’s address.<sup>6</sup> These changes help to protect children from traffickers, smugglers and others without an actual relationship to the child that may wish to do them harm. If ORR discovers that a sponsor is using fraudulent documents, ORR denies release.<sup>7</sup> ORR reports the cases to the HHS/Office of the Inspector General and to U.S. Immigration and Customs Enforcement’s Homeland Security Investigations.

In the area of home studies, ORR made a change to policy in March 2016 that led to an increase in discretionary home studies and post-release services.<sup>8</sup> We now require home studies for all UAC 12 years of age and younger being released to non-relative sponsors.<sup>9</sup>

Another step in improving the safety of releases is to contact the child and the sponsor shortly after release, which is a critical adjustment period. To accomplish this, ORR initiated safety and well-being calls.<sup>10</sup> A case manager contacts the child and the sponsor 30 days after release. The case manager confirms that the child is still residing with the sponsor, is enrolled in school, is aware of upcoming court dates, and, most importantly, is safe. If the case manager, or any other ORR grantee or contractor that has contact with a released child, has a concern about the child’s safety or well-being, they must take steps under ORR’s new “post-release reporting system for

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *ORR Guide: Children Entering the United States Unaccompanied*, § 2.4.2 “Home Study Requirement.” (January 2017), <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.4.2>.

<sup>9</sup> *Id.*

<sup>10</sup> *ORR Guide: Children Entering the United States Unaccompanied*, § 6.1 “Summary of Resources and Services Available After Release from ORR Care.” (June 2016), <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-6#6.1>.



notifications of concern.”<sup>11</sup> Under the new system, they must report all concerns to appropriate investigative agencies, and notify ORR of immediate dangers to a child’s safety or well-being.<sup>12</sup> To remove children from unsafe situations, ORR reports notifications of concern to local law enforcement for follow-up.

In addition, ORR has expanded the services of our National Call Center. The National Call Center is a resource for all children and sponsors post-release.<sup>13</sup> It is now available 24 hours a day, seven days a week,<sup>14</sup> and provides referrals to community assistance and other guidance to sponsors and children seeking help, including safety concerns.<sup>15</sup>

## **Closing**

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 unaccompanied alien children and the communities where 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 at the appropriate time.

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *ORR Guide: Children Entering the United States Unaccompanied*, § 6.4 “ORR National Call Center.” (July 2016) <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-6#6.4>.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* “The Call Center offers the following assistance to children released from ORR care: Locate resources in the sponsor’s community, such as: Legal service providers, Educational support, Medical care, Emotional support, *Juvenile justice*, Substance abuse treatment, *Safety support*.” (emphasis added)