



Testimony of

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Subcommittee on National Security, the Border, and
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Introduction

Chairman Grothman, Ranking Member Garcia, and distinguished Members of the Subcommittee, thank you for the opportunity to appear before you today on behalf of the Department of Health and Human Services (HHS or Department). I am Robin Dunn Marcos, the Director of the Office of Refugee Resettlement (ORR) within the Administration for Children and Families (ACF), which includes the Unaccompanied Children (UC) Program that is responsible for the care and placement of unaccompanied children in HHS custody. Since assuming my position as ORR Director in September 2022, I have led a dedicated team of career federal staff, contractors, and grantees who are committed to ensuring the safety and well-being of every child in our care. I have also visited 18 care provider programs and shelter facilities in Arizona, California, Michigan, New York, Texas, and Virginia. I have met children we serve and some of the dedicated professionals who serve them, and I have witnessed the commitment and devotion of our staff. Providing for the safety and well-being of the children in our care is not only our mandate, it is also our guiding principle. This goal is reflected in our policies, our people, and our efforts to strengthen the program every day.

In my testimony today, I will share the current state of ORR's Unaccompanied Children Program; the policies that ORR has in place to promote the safety and well-being of unaccompanied children during sponsor vetting; and, to the extent possible under our authorities and mission, the steps we are taking to support and protect children following their release from ORR's care as they transition into their new homes and communities.

ORR's Responsibility for Unaccompanied Children

Under the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), ORR is legally required to provide for the care and

custody of all unaccompanied children from the time they enter ORR's custody following a referral from the Department of Homeland Security (DHS) or other federal entity until they are released to a vetted sponsor.

Additionally, the *Flores* Settlement Agreement establishes minimum standards for specific services for ORR-funded programs to provide for unaccompanied children for their care and well-being while in ORR custody. To fulfill ORR's statutory and court ordered requirements, ORR funds nearly 300 programs in 27 states for different levels of care including shelter programs, transitional foster care, long-term foster care, group homes, residential treatment centers, and staff secure and secure facilities, as well as one active Influx Care Facility (ICF) in Fort Bliss, Texas. ORR also funds an additional ICF in Pecos, Texas, which as of March 11, 2023, houses no children and is in warm status with reduced staff and minimal maintenance to ensure future capacity to accept all referred children. ORR provides child-appropriate services including education, health care and counseling services, case management services, recreation, access to legal services, access to religious services, and access to Child Advocates, where applicable. These services are delivered according to child welfare best practices in a manner that is appropriate to the age, culture, preferred language, and needs of each child.

While children are in ORR care, case managers work diligently to identify and vet a potential sponsor, typically a parent or other close family member. Pursuant to the TVPRA, ORR conducts due diligence on a sponsor's ability to provide for a child's physical and mental well-being, prior to placing a child in their care. It is challenging and important work, and one in which ORR staff works diligently and in engagement with additional child welfare experts and stakeholders to support and protect the children entrusted to our care.

Current State of the UC Program

As of March 31, 2023, ORR had received 59,541 referrals from federal entities for Fiscal Year (FY) 2023 and had 8,116 children in ORR care. Through flexible capacity, improved case management processes, and coordination with inter-agency partners, ORR can now quickly accept DHS referrals. The average amount of time unaccompanied children spend in DHS border facilities is now on average less than 24 hours—well under the 72-hour maximum time under which children must be transferred to HHS care under the TVPRA, absent exceptional circumstances. The Department has worked with DHS to minimize the time an unaccompanied child spends in a border processing facility or port of entry, which are not equipped for extended stays for children. For this reason, ORR continues to work to improve and refine these processes.

In the first half of FY 2023, ORR had placed 58,735 children with sponsors. The average length of time a child spent in ORR care over this time was less than a month. Given ORR's child welfare mission, we know that the best place for a child is with a family in a community, not in a congregate care setting. More than 85 percent of the 127,447 unaccompanied children released to sponsors in FY 2022 were placed with a close family member, and more than a third of those overall were placed with a parent or legal guardian. Fewer than 15 percent of children discharged from ORR custody in FY 2022 were placed with either a more distant relative or a non-relative sponsor who in many cases is a friend of the family recommended by a parent.

ORR's Sponsor Vetting Process

While fulfilling its sponsor placement responsibilities, ORR seeks to work in the best interest of the child to safely expedite the release of unaccompanied children to a parent or legal guardian, or other appropriate sponsor when possible, and has thorough sponsor screening and vetting processes in place for each category of sponsors. In fact, through digital improvements alone, ORR has implemented more than 70 changes to the UC Portal (ORR's database) to

increase usability and search functionality to speed up processes, reduce errors, build in safeguards, and make it easier to identify flags during sponsor suitability assessments. ORR has also funded seven-day case management, which has ensured comprehensive staff support, making the transportation scheduling process more efficient.

ORR identifies potential sponsors among four categories: parents or legal guardians as Category 1; brothers, sisters, grandparents, or other immediate relatives as Category 2; distant relatives or unrelated individuals as Category 3; and unaccompanied children with a sponsor yet to be identified as Category 4. ORR's sponsor suitability assessment process includes verifying the sponsor's relationship to the child; speaking with the child's parents as appropriate; conducting separate interviews with the child and sponsor; collecting supporting documentation to verify the sponsors' information; and administering background and address verification checks—which include public records and sex offender registry checks, as well as FBI fingerprint checks in certain cases.

ORR also carries out home studies as required in certain circumstances by the TVPRA or ORR policy prior to placement. This includes, for instance, when a child has previously been a victim of trafficking or has a disability, pursuant to the TVPRA; and instances when a potential sponsor is a non-relative and the child is 12 years old or younger or the sponsor has previously sponsored or sought to sponsor and is seeking to sponsor multiple children, per ORR policy. Additionally, to emphasize these safeguards, home studies may also be conducted at ORR's discretion if the ORR Case Manager or Case Coordinator determine that the home study may provide additional information regarding the sponsor's ability to care for the health, safety, and well-being of the child. These home studies are in-depth investigations of a potential sponsor's ability to ensure the child's safety and well-being, which include background checks of the

sponsor and adult household members, home visits, and face-to-face sponsor interviews and possibly interviews with other household members.

ORR's Services Following Discharge

ORR recognizes that even when sponsors are thoroughly vetted, children may still tragically find themselves in unsafe or exploitative situations. Although ORR's custodial responsibilities legally end when a child is released to their sponsor, and ORR does not have the authority to remove a child from a home, state and local child welfare agencies assume responsibility for responding to allegations of child abuse and neglect and can, if necessary, remove a child from an unsafe home.

ORR does, however, have policies in place to promote the safety and well-being of unaccompanied children by linking them to services after they have been released from ORR care and transition into a new community. These policies include Safety and Well-being calls to children and sponsors after ORR releases a child from its care. Per ORR policies, ORR care providers are required to make a minimum of three attempts for every child to reach and speak with the child and the sponsor. Although children and sponsors are not required to participate in Safety and Well-being calls and may choose not to answer a call for a variety of reasons, in FY 2022, ORR care providers made contact with either the child, the sponsor, or both in more than 81 percent of households.

When a care provider identifies a child who may benefit from additional resources through a Safety and Well-being call, the child is referred to ORR's National Call Center (ORRNCC), which is staffed 24 hours a day, seven days a week. This helpline connects children and sponsors with resources within their local community to help address their individual needs. Children are provided with information about the ORRNCC while in care, and are given a card,

as is their sponsor, with the ORRNCC information upon release, with instructions to call 911 if they are in danger.

Children, family members, sponsors, legal service providers, child advocates, and other members of the community can request assistance or report concerns to the ORRNCC. The ORRNCC is required to document and report any safety concern, in accordance with mandatory reporting laws, state licensing requirements, federal laws and regulations, and ORR policies and procedures to ORR, as well as to the appropriate local law enforcement agency, state and local child protective services, or both. Additionally, ORR has recently implemented a requirement for the ORRNCC to provide children who call the helpline and express safety concerns with information regarding the authorities to which their safety concerns will be reported. It will also connect children directly with the appropriate authority when possible, and place a follow-up call to the child to confirm if any further actions are needed.

ORR also provides post-release services (PRS) to unaccompanied children who are required to receive PRS under the TVPRA, and to children who, in the determination of a care provider, would benefit from ongoing assistance, including all children who are victims of trafficking in any form. PRS includes timely referrals and connection to community resources as well as intensive services in cases where additional support is necessary to address a child's specific needs or challenges. These referral and case management services are offered by a network of ORR-funded grantees across the United States. PRS can include help with school enrollment, support in finding and accessing health and mental health care, connections with local organizations, and other supports to ensure children's well-being.

If an ORR care provider identifies or suspects any safety concerns at any point during their interaction with an unaccompanied child or former unaccompanied child, they are required

to issue a Notification of Concern to ORR and notify appropriate investigative agencies, including local law enforcement and child protective services. This includes any suspicion that the child has run away, is at risk of or posing a danger to themselves or others, or is at risk of human exploitation, trafficking, or other abuse. ORR then conducts further review and determines what action should be taken, which may include additional reporting and engagement with local law enforcement, state child welfare authorities, and PRS.

Should an ORR care provider or case manager suspect that a child is a victim of trafficking or is at risk of trafficking at any point during this process, they must also make a referral to ACF's Office on Trafficking in Persons (OTIP) and to DHS's Homeland Security Investigations Division and DHS's Center for Countering Human Trafficking for further investigation. OTIP provides further assessment assistance to ensure that victims can access appropriate care and services. Such care is then coordinated with ORR to provide direct referrals for grant-funded comprehensive case management services, medical services, food assistance, cash assistance, and health insurance tailored to the child's individual needs. In February 2023, ORR entered into a data sharing Memorandum of Agreement (MOA) with OTIP and the National Center for Missing and Exploited Children (NCMEC) to increase information-sharing and visibility on unaccompanied children who are referred to NCMEC and who may be at risk of trafficking or exploitation.

Looking to the Future

With the mandate and mission to care for unaccompanied children's safety and well-being while in ORR custody, ORR is continually assessing, identifying, and implementing improvements to the UC Program.

Accordingly, I am pleased to provide an update regarding ORR's close work and partnership with the Department of Labor (DOL). Our joint efforts to conduct due diligence to prevent and respond to child labor issues have been ongoing and, as of March 23, 2023, have also been formalized in an MOA between DOL's Wage and Hour Division and ACF. The MOA expands our collaborative work and will help to identify communities and employers where children may be at risk of child labor exploitation; aid investigations with information that could help identify circumstances where children are unlawfully employed; and further facilitate coordination to ensure that child labor trafficking victims or potential victims have access to critical services. HHS and DOL will also continue to develop and distribute new materials and trainings to provide information to children and sponsors about child labor laws in the United States so that children and sponsors understand the laws on labor rights and restrictions.

Additionally, ORR launched an audit of individuals who have sponsored or sought to sponsor multiple unrelated unaccompanied children, to ensure all necessary safeguards are in place without unnecessarily keeping children in government-funded, congregate care settings. The audit involves two concurrent efforts: 1) a review of unaccompanied children released in calendar years 2021 and 2022 to an unrelated sponsor who sponsored more than two unrelated unaccompanied children; and 2) an ongoing, concurrent review of current vetting requirements for potential sponsors who have previously sponsored unaccompanied children. ORR intends to provide information on the findings from this audit.

Furthermore, this Administration is committed to expanding PRS tailored to the unique needs of each child. In FY 2022, ORR more than doubled the rate of children provided PRS, serving more than 40 percent of children compared to just over 20 percent in FY 2021. We are currently on track—with the continued funding support from Congress—to achieve our goal of

providing all children with PRS by the end of FY 2024. Expanded PRS will consist of three levels of services, which may be elevated at any time, ranging from Level 1 (consisting of three comprehensive virtual or in-person check-ins) to Level 3 (involving intensive, in-person case management).

Conclusion

Thank you for the opportunity to provide an update on the ORR UC Program. We are committed to caring for and protecting children in ORR custody and continue to work within the bounds of our authorities to safeguard their well-being following their release from ORR. Children who have come through ORR care face unique challenges that require a whole of government approach—including our partners in Congress, fellow federal agencies as well as state and local agencies, and national and community partners. ORR is proud to take part in this critical work.