

**TESTIMONY OF SECRETARY XAVIER BECERRA
BEFORE THE HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
July 26, 2023**

Introduction

Chairman Griffith, Ranking Member Castor, Chair McMorris Rodgers, Ranking Member Pallone, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Department of Health and Human Services (HHS) Unaccompanied Children (UC) Program within the Office of Refugee Resettlement (ORR). It is my great pleasure to serve alongside the dedicated civil servants at HHS who work tirelessly to meet our mission of enhancing the health and well-being of the American people. We know this goal is also shared by all of you, and we look forward to working with you to meet that mission.

In my testimony today, I will share the current state of the Department's UC Program, the policies that ORR has in place to promote the safety and well-being of unaccompanied children, and the steps we are taking consistent with our authorities and mission to support and help protect children following their release from HHS' custody as they transition into new homes and communities. The ORR UC Program's mandate and mission is directed at caring for unaccompanied children and providing for their safety and well-being while they are in HHS custody. ORR consists of a dedicated team that operates and continually assesses, identifies, and implements improvements to the UC Program.

Responsibility for Unaccompanied Children

Under the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)) and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) (8 U.S.C. 1232(b)(1)), HHS is required to assume custody of and provide care for all unaccompanied children from the time they are transferred to HHS from the Department of Homeland Security (DHS) or other federal entity until they are released to a vetted sponsor. Further, the 1997 *Flores* Settlement Agreement¹ establishes minimum standards for specific services for unaccompanied children under ORR-funded programs.

To fulfill the Department's statutory and court-ordered obligations, ORR funds nearly 300 programs in 27 states for different levels of care such as shelter programs, transitional foster care, long-term foster care, group homes, staff secure facilities, and residential treatment centers. Additionally, ORR works to maintain a preparedness posture by ensuring it can quickly scale up capacity if needed to provide safe, operational facilities for children. At these facilities, 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

¹ Stipulated Settlement Agreement, *Flores v. Reno*, No. CV 85-4544-RJK (Px) (C.D. Cal. Jan. 17, 1997, as amended Dec. 7, 2001).

language, and needs of each child.

Current State of the Unaccompanied Children Program

As of June 30, 2023, ORR had 6,059 children in ORR care and had received 84,586 referrals from federal entities in Fiscal Year (FY) 2023. HHS works 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. Through flexible capacity, improved case management processes, and coordination with inter-agency partners, ORR can efficiently accept DHS referrals. The average amount of time an unaccompanied child spends in DHS border facilities is now well under the 72-hour maximum time within which children must be transferred from DHS to HHS care under the TVPRA, absent exceptional circumstances. The staff of ORR continually works to improve and refine these processes for the safety and well-being of children.

Thus far in FY 2023, ORR has placed more than 87,000 children with vetted sponsors. The average length of time a child spent in HHS care over this period is less than one 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. In the prior fiscal year, more than 85 percent of unaccompanied children released to vetted sponsors were placed with a parent, legal guardian, or other close family member.

Sponsor Vetting Process

In fulfilling its sponsor placement responsibilities, HHS employs thorough sponsor screening and vetting processes for each category of sponsors that are based on child-welfare principles. To that end, ORR has implemented and funded seven-day-a-week case management, which seeks to ensure comprehensive staff support and that every child's case is worked on even after normal business hours. Additionally, through digital improvements, ORR has implemented significant updates to the UC Portal (the UC Program technology system) to increase usability and search functionality to build in safeguards, streamline processes, and make it easier to identify child welfare "red flags" during sponsor suitability assessments.

ORR identifies potential sponsors for unaccompanied children in different categories of cases: 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 vetted 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 when possible; 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.

Prior to placement, ORR also carries out home studies in certain circumstances, as required by the TVPRA and ORR policy. 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, not only of the sponsor, but also of adult household members, home visits, face-to-face sponsor interviews, and, if necessary, interviews with other household members.

Home studies are required, for instance, when a child has previously been a victim of trafficking or has a disability, pursuant to the TVPRA; and, per ORR policy, in 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 a child or is seeking to sponsor multiple children.

Additionally, to provide additional safeguards, home studies may also be conducted at ORR's discretion if the ORR Federal Field Specialist, Case Manager, or Case Coordinator determines that a home study may provide additional information regarding the sponsor's ability to care for the health, safety, and well-being of the child.

Services Following Unaccompanied Children's Release to Sponsors

HHS recognizes that children released from our care may benefit from ongoing assistance by a social services agency. Further, even though sponsors are thoroughly vetted, children may still find themselves in unsafe situations. ORR has policies in place, beyond when our custodial responsibilities legally end, to promote unaccompanied children's well-being after they have been released from our custody 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 case to reach and speak with the child and the sponsor. 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, including fear or distrust of government, hesitation to answer an unknown number, or simply missing the call. Nevertheless, ORR care providers made contact with either the child, the sponsor, or both in more than 81 percent of households since FY 2022.

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 receive information about the ORRNCC while in ORR's care, and upon release they and their sponsor are provided a card with the ORRNCC information, which also includes 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 any safety concerns and report such concerns to ORR, as well as to appropriate local law enforcement agencies and state and local child protective services as appropriate, in accordance with mandatory reporting laws, state licensing requirements, federal laws and regulations, and ORR policies and procedures. Additionally, ORR requires 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. The ORRNCC also connects children directly with the appropriate authorities, when possible, and places 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 follow-up services 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 case management 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 grant recipients 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.

Further, if ORR care provider staff, such as a case manager or clinician, identifies or suspects any safety concerns at any point during their interaction with an unaccompanied child either while a child is in ORR care or post-release through a Safety and Well-being call, 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 trafficking, exploitation, or other abuse. ORR then conducts further review and determines what actions should be taken, which may include additional reporting and engagement with local law enforcement, state child welfare authorities, and/or referral to PRS.

It is important to note that ORR, as a federal agency, cannot remove a child from a home; that authority resides with state child welfare and law enforcement agencies. ORR recognizes the critical importance of its notification and coordination processes to ensure that local authorities can respond appropriately to any allegations of abuse or neglect.

If ORR care provider staff, such as a case manager or clinician, suspect that a child is a victim of trafficking or is at risk of trafficking at any point during their interaction with an unaccompanied child, they must make a referral to the Department's Administration for Children and Family's (ACF) 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. HHS engages in constant efforts to improve care and information-sharing efforts for better human trafficking prevention. For example, 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

Consistent with the mandate and mission to care for unaccompanied children's safety and well-being while in HHS custody, we are continually assessing, identifying, and implementing improvements to the UC Program.

While unlawful child labor is not limited to migrant children, HHS recognizes that unaccompanied children released from ORR custody may be particularly vulnerable. Thus,

consistent with our statutory authorities, HHS is working closely in partnership with the Department of Labor (DOL) in federal efforts to protect children against labor exploitation. 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 the Department's ACF, which oversees ORR. The MOA expands our collaborative work to help 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.

In April 2023, HHS and DOL developed and distributed new materials and trainings to provide information to children and sponsors about child labor laws in the United States so that children and vetted sponsors understand the laws on labor rights and restrictions to working in the United States. The cross-training efforts of DOL and HHS staff have been successful and robustly attended, with approximately 800 HHS staff trained by DOL and 250 DOL managers trained by HHS.

Additionally, HHS launched an audit of individuals who have sponsored multiple unrelated unaccompanied children, to ensure all necessary safeguards were followed. On June 2, 2023, HHS released the results of its audit, which found that ORR adhered to its program policies and procedures designed to meet or exceed statutory requirements in the placement of unaccompanied children with a vetted sponsor. The audit also identified areas for continued improvement. HHS announced additional efforts to protect the safety and well-being of unaccompanied children, including a new Program Accountability team in ORR that will be responsible for assessing and addressing potential exploitation risks faced by unaccompanied children. This new team will play a key role in working with an external entity to conduct an in-depth review of vetting and placement processes across all sponsor categories.

Further, 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 offered PRS, providing access to more than 40 percent of children compared to just over 20 percent in FY 2021. With continued funding from Congress, we continue to advance toward our goal of providing all children access to PRS by the end of FY 2024.

Conclusion

Thank you for the opportunity to provide an update on the Department's UC Program. We are committed to caring for and protecting children in HHS custody and continue to work within the bounds of our authorities and resources to safeguard and promote their well-being following their release. Children who come into 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. At HHS, we are proud to do our part in this critical work.