

MEMO OF CONCERN

TO: Stephen Antkowiak, DUCO Director

DATE: 7/23/2021

FROM: The Office of Refugee Resettlement's Division of Unaccompanied Children's Operations
(ORR/DUCO) Federal Field Specialist Supervisors

RE: Concerns regarding the erosion of child-welfare practices within the UC Program

Introduction

Over these past few months, our nation has experienced historic challenges in a very brief time. One such challenge has been the arrival of an unprecedented number of Unaccompanied Children [UC] across the Southwest border of the United States. Never in the history of the Unaccompanied Alien Children's program has ORR agency seen such high levels of UC entering the United States. This large and steady migration of unaccompanied children has posed many unique challenges to both HHS/ACF/ORR as the principal agency that provides care and custody of the migrant children, and to the federal government as a whole in leveraging its resources to accommodate this sustained influx.

Although our current times represent the largest influx of UC that ORR has experienced, ORR is no stranger to surges of UC. As an agency, ORR has managed previous influx and crisis situations involving UC, as well as it has managed the day to day operations of caring for unaccompanied children during non-influx times. In fact, ORR has been engaged in this work since the early 2000s after the care, custody, and release of UC from the then Immigration and Naturalization Service was turned over to HHS.

Noting that the migration of UC is unique from the general phenomena of immigration and migration, the care, custody, and release of UC was taken away from the government's immigration agencies [INS and later DHS] and handed over to the government's human services' and social welfare agency [HHS] approximately 2 decades ago. This discovery that the care, custody, and release of UC should be managed by social welfare, health, and child welfare professionals in a developmentally appropriate care model resulted in the Flores settlement agreement. In 2002, Congress enacted the Homeland Security Act. This Act created the Department of Homeland Security and established that DHS would be the principal agency to manage immigration and immigration related issues (i.e. processing visas, enforcement of immigration laws, etc...). However, the Act made clear that the care, custody, and release of UC would be managed by HHS and not DHS. By voluntarily entering into the Flores settlement, and later by the passing of the Homeland Security Act of 2002, the United States has made clear that managing UC must be accomplished using child welfare frameworks rather than systems for managing other types of migrants and immigrants. The fact that HHS further decided to place the UC program within its Administration for Children and Families, the child welfare arm of the Department, underlines

that statutory intent to manage the UC program should be done under the auspices of child welfare professionals and not immigration officers.

The phenomenon of migration is undeniably complex. From a child welfare lens, migration and its surrounding issues bring out the best and the worst in societies. The more vulnerable an individual is, the greater the risks associated with migration. These risks include sex and labor trafficking, exploitative labor, physical and sexual abuse, as well as neglect to name a few. Unaccompanied children are especially vulnerable as a group. Being a migrant, itself, carries a certain amount of vulnerability. UC are not only migrants, but they lack the power, connectedness, and ability for full self-determination that adult migrants often have. Likewise, UC lack the connectedness to bonded adults that children traveling with their parents may have. There are often other specific vulnerabilities, such as significant attachment trauma, mental and behavioral health needs, lack of insight toward predatory behavior by adults, and an inability to identify and access resources to name a few. For these reasons and others, a child welfare professional with experience in working with this population is needed.

Since the beginning of this current influx surge of UC, ORR field staff have seen the transformation of the Division of Unaccompanied Children's Operations within ORR from a child-welfare focused model to one that emphasizes what seems to be "release to someone as soon as possible model". In other words, throughput seems to be the primary goal of the program with a nod to some safety measures. Whereas child safety, informed by child welfare principals unique to the UC population, should be prioritized. As child welfare professionals with combined decades of experience working with UC, we, the ORR field staff supervisors, have become growingly alarmed at the erosion of child-welfare centered approaches within the UC program. We see the curtailing of ORR's child-welfare centered practices, developed over the past two decades specifically for UC, as dangerous on many levels. Therefore, we feel compelled to act by expressing this concern to you, our leadership. It is our hope and intent with this letter to change the course of managing this current influx away from what has seemingly become a "fastest-possible-release" model back to one informed by child-welfare principles and best practices for UC.

As stated, this letter was created, drafted, and signed by the Field Supervisors of the UC Program within ORR, the vast majority of our front-line field staff have expressed the same, or similar, sentiment regarding the content of this letter. Therefore, the concerns noted in this letter are shared more broadly by ORR career staff than just the signatories. As Supervisors, we feel that we must communicate the concerns brought to us by our assigned staff who carry an enormous amount of education and experience in the field of child-welfare and with the UC population.

Below is a breakdown, and description, of the key areas of concern that have been identified. These areas demonstrate where, in our opinion, child welfare principles and best practices have been significantly diminished, or erased, to the point of creating a dangerous environment for the unique population of children we serve.

The Language of Flow and "Throughput"

Words could heal and hurt, as well as shape attitudes and behaviors. There is no denying that words, and how they are used, absolutely matter. Over the past few months, discussions regarding operations of the UC Program have been framed using words like "maximizing flow [of kids]", "expedited release", "throughput", and "expedited processing/vetting" to name a few. The language surrounding the UC program, specifically about its service obligations, has been characterized by many to be like processing

commodities rather than making placement decisions for children. As a result, inordinate emphasis has been placed by senior leadership for the program to focus on maximizing the greatest amount of releases of children as quickly and expeditiously as possible as the principle goal above all others. In fact, when there is a discussion of problem areas within ORR that need to be solved, they are almost always reduced to being a failure to release kids quickly.

Framing the current influx situation as a failure to maximize throughput (viz. not releasing children fast enough to sponsors), staff involved in assessing releases for UC can feel forced to make dangerous decisions regarding placement in favor of demonstrating that they are quickly releasing UC to sponsors. The current climate in ORR that has been created by leadership has been one that rewards individuals for making quick releases, and not one that rewards individuals for preventing unsafe releases.

Over the course of the past month or so, ORR field staff and our partners are seeing rising concerns surrounding potential trafficking schemes, and the Office of Trafficking in Persons has alerted UC field staff to a rise in released UC working at the same places of employment as their sponsors. Due to the emphasis on speedy releases in the current agency culture, we feel that releasing UC to risky environments is significantly more heightened. Therefore, we encourage leadership to consider taking a more balanced approach to UC sponsor releases that does not emphasize speed over safety. Rather, an approach that aligns safe and timely releases would be more beneficial to the children and families we serve.

The Opening and Operation of EIS Facilities

Perhaps one of the most vivid examples of the erosion of child welfare best practices that we have seen to date has been the rushed opening of the EIS facilities. The EIS facilities were the alternative for keeping children for excess time in CBP custody. And although there is broad agreement with the signatories of this letter with the intent to limit a child's stay in a CBP processing center, the EIS sites did not create a significantly safer alternative than CBP processing sites. In fact, at a WebEx meeting on 3/16/2021, the Director of DUCO, Mr. Stephen Antkowiak, was pressed by white house staff, Vivian Graubard, on the speed of the openings of the EIS facilities. Ms. Graubard was emphatic in communicating to the DUCO director that these EIS facilities be opened as quickly as possible and without delay. In what appeared to be a frustrated tone, the DUCO Director said, "I'm just trying to make these places safe right now. They're not even safe for children." After Stephen said that, there was no discussion of this comment by Ms. Graubard or any other senior leader on the call. The expectation for speed of opening these EIS facilities was left in place.

As field-based child-welfare professionals, we appreciate the need to move children from CBP facilities to more developmentally appropriate settings. However, the rush to open large convention center sites was not a safe alternative. These sites lacked the basic services needed to safely care for and assess the needs of UC before UC were placed there. And thousands of UC were placed in these settings in the initial openings. What adds further concern was that the Homestead Influx Care Facility was ready to receive approximately 2000 UC. It is undeniable that an influx care facility is not the same level of care as ORR's licensed bed network. However, this facility has an agency with experienced and dedicated staff, who are familiar with the UC program. They have the knowledge, experience, and abilities to care for UC. However, opening of EIS facilities with no such capacity as Homestead had was prioritized.

The EIS facilities were poorly staffed from the beginning. Many individuals in key leadership positions were federal volunteers and detailees who had no specific education, background, knowledge, or training in child-welfare specific to the UC program. It was alarming to many of our ORR field staff that youth care workers in the EISs were not provided with adequate training in child-care prior to being appointed over the care of the children. Further, many youth care workers, including federal volunteers and detailees, had not been trained to identify and respond to mental health issues of children in care. This was unfortunately true despite the fact that being in an EIS facility itself seemed to be an aggravating factor for the emergence of mental health issues in the children staying there.

The EISs, however, were opened despite many flags being raised. They were opened in facilities that are not child friendly nor developmentally appropriate (i.e. convention centers, oilfield man camps, tent structures in very inhospitable environmental situations, etc....). Further, the EISs were opened with little to no programming for the children, and the individuals staffing them had little to no experience with the UC population. As a result, our ORR staff became first-hand witnesses of the deterioration of the mental and behavioral health of UC. ORR staff also became exposed to children having been sexually assaulted in these facilities. Children's basic needs for clean clothing and personal space was also absent in some of the EIS facilities, and the few ORR field staff available to serve in the EIS facilities reported they had to be constantly vigilant to ensure the basic safety of the UC in care there. To this day, the EISs are run like disaster camps rather than developmentally appropriate childcare settings. Seeing children in these settings has demoralized a great number of field staff. Some field staff, tenured and seasoned in both the UC and domestic child welfare programs, are reporting symptoms of secondary stress from having been at the EIS facilities or working with them.

Again, it is understood that there is a need to place UC in alternative setting to CBP processing centers. However, the alternative placements should be deemed safer than the CBP facilities, as well as more developmentally oriented toward child-care than the CBP settings the UC are coming from. In fact, some EIS facilities are indistinguishable from the CBP settings UCs were previously in.

The Systematic Dismantling of Sponsor Vetting/UC Release Procedures

Since the inception of the UC program at ORR, the agency has developed methods for making safe release decisions over the approximate past 2 decades. Through the trial and error that comes with experience, and through a child-welfare lens, ORR had created a system that protected the vast majority of children from trafficking, exploitation, and other dangers that can come with being an unaccompanied migrant child. As previously stated, ORR had managed the UC program during previous influxes and non-influx times alike. As an agency, we have learned the unique risks posed to UC, and we have developed practices that attempt to identify and mitigate risks to the children while simultaneously effectuating their release from care as quickly as possible without sacrificing safety.

From the beginning of this current influx, it appears that senior leadership had made fast releases the priority of ORR's operations. To accommodate fast releases, existing ORR policies were reviewed by experts in efficiency modeling (not child-welfare experts with experience working specifically with UC) and significantly edited or erased if they were viewed as slowing down releases. This move to dismantle current sponsor vetting policies were done with the sole intent to reduce delays in releases, and they were made even despite protests from career ORR staff. On another WebEx meeting with ORR staff and white house advisors on 3/16/2021 at 10 PM Central time, the Director of ORR Policy, Toby Biswas, introduced what became known as FG #10. This new procedure, designed upon the insistence of senior

leadership, for releasing Cat 1 cases eliminated even the most basic safety procedures (i.e. assessing a child's mental health, behavioral health, social history, and the quality of the child/parent relationship for all cases). This new policy also eliminated the third-party review, which had been in place as an additional safety measure in making release decisions. Nonetheless, though, this field guidance was implemented in a week from when it was designed. The field guidance wasn't piloted nor was it reviewed by child welfare SMEs. In this WebEx meeting at 10 PM Central time, FFS-S ██████████ said that this procedure does not appear safe on the surface, and should, at a minimum, be reviewed by child welfare SMEs before being implemented. The answer received from the ORR Chief of Staff was, "Joo [the AAS] used to work at Children's Bureau." Discussion about the new procedure was then stopped. ██████████ then remarked how these procedures seemed reflective of the days when then INS managed the UC program, and Toby Biswas, the ORR Policy Director, stated that this was indeed the origin of this new policy. Apart from the child-welfare concerns with this new procedure, one can see some statutory concerns. FG#10 has regressed the UC Program back to the days when then INS managed it as part of immigration management, but which congress explicitly ordered the program to be taken away from in favor of a child-welfare focused program.

Over the past 3-4 months, Senior leadership has continued to force changes to ORR policy in the form of Field Guidance (most likely due to its rapid ability to implement procedural changes without having to go through normal/formal avenues to make policy changes). At the time of this writing, ORR policy had issued 8 more field guidance memos since that first one issued in the latter part of March 2021. And what is noteworthy is that practically all the new FG memos (perhaps apart from FG 17 and 18) have weakened ORR's ability to vet sponsors or provide levels of care to UC. However, even for the medical FG on COVID vaccines, there is definite attention paid to ensuring that vaccine receipt does not prolong release in any way. So, again, almost all the Field Guidance issued within the past 3 to 4 months has been to promote speedy releases by pruning ORR's procedures developed over the past two decades regarding the care, custody, and release of unaccompanied children. It should be emphasized that all these policies were developed without significant voice from ORR's own UC child-welfare SMEs.

Case Management Model (Contractor Stand Up and Virtual Case Management)

Case Management, especially within the EIS facilities, has become a focal point of concern for most ORR field staff. ORR field staff have seen the placement of case managers with no case management experience being tasked to carry out skilled case management duties for a specialized population. Contractors at EIS facilities were expected to hire large numbers of case managers in an extremely short period of time. Unfortunately, this appears to have been done at the expense of hiring individuals without the knowledge, skills, or abilities to serve as skilled case managers in the UC Program. And although hundreds of such individuals have been hired in the past few months, these new case managers started working cases without adequate training or supervision. At best, these newly hired case managers they have had some piecemeal training in the job and have had some minimal exposure to resources to assist them in completing their case management duties. Case management is arguably the most important job within the UC Program, as case managers are the first to start the UC unification process. They are also expected to make informed release recommendations and initiate and complete the process of a UC's release from ORR care.

In addition to the mass hiring of government contractors to staff case management at the EIS sites, senior leadership immediately began to insist that DHS/USCIS employees serve as ORR case managers.

The rationale was that since USCIS officers had some training in child interviewing techniques and processed immigration applications, they could also perform case management duties for UC. In other words, these immigration officers were viewed as being equipped to complete sponsorship applications for UC as if they were child welfare case managers. However, again, these DHS officers are not child-welfare professionals. They are immigration officers with experience in completing applications, but they have no context on how to use the Information obtained for the purpose of making child-welfare informed recommendations. USCIS' officers' lack of child-welfare experience became evident to ORR field staff when reviewing UC release submissions. In some instances, children had significant history of abuse and neglect that was not taken into consideration in the release recommendations. Likewise, ORR staff reported seeing cases where sex offenders were part of the household where UC were being recommended to for release.

Apart from the fact that USCIS case managers are not child welfare professionals, the virtual case management model using USCIS officers is one that creates a highly fractionated service environment. USCIS operates a parallel case management arm for the EIS facilities that has yet to be integrated within ORR's operational control. USCIS officers operating as case managers are largely disconnected from the facilities where the children reside, and they are disconnected from the oversight and mentorship of ORR child-welfare SMEs as well. This fragmented model of case management performed by immigration officers over child-welfare professionals is inherently dangerous from a human services/child-welfare perspective. There is a long-established best practice, not being followed here, in child-welfare centered services that service providers to children and families should work in an integrated model. The fragmentation between ORR operated case management and USCIS is evident by the fact that USCIS employees maintain their own email addresses, they have their own USCIS management structure, they are not within ORR's operational control, and they even perform their own training absent ORR's SMEs. What's further troubling about this service delivery model is that it can only operate when ORR policies for sponsor vetting have been seriously diminished. USCIS virtual case management cannot work if ORR maintains its normal procedures designed for child-welfare best practices. By requiring a significantly edited child-welfare model, administered by non-child welfare professionals is very dangerous. Additionally, ORR's child-welfare professionals have no oversight, or mentorship ability, over the USCIS operational model of UC case management. Again, this troubles ORR field staff from a child-welfare perspective, and it appears to run counter to our authorizing legislation.

Professional Environment

During this time of influx, the professional environment has been an issue of concern for many ORR staff. The AAS has initiated a case staffing with FFS working in EIS facilities to review "long stayers". These calls, again, are focused on releasing children. The tone of these meetings is often confrontational and condescending. As a result, many FFS are frightened to attend the call without demonstrating fast releases, and then they go back to the EIS facilities to ensure that cases are released fast to the exclusion of anything else. In other words, the idea is that case management staff are encouraged to strive to do the absolute minimum vetting of sponsors to effectuate the quickest releases. As a result, there are safety issues that are likely being overlooked.

There is also a large concern that the leadership of many key elements of the ORR service model, the UC Program in general, is being taken over by Project Managers with some tertiary exposure to UCs, but none whose backgrounds are explicitly in a child-welfare discipline. Leaders in case management cells,

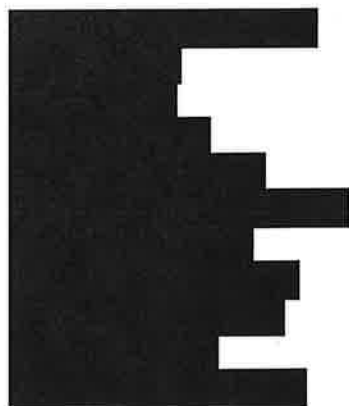
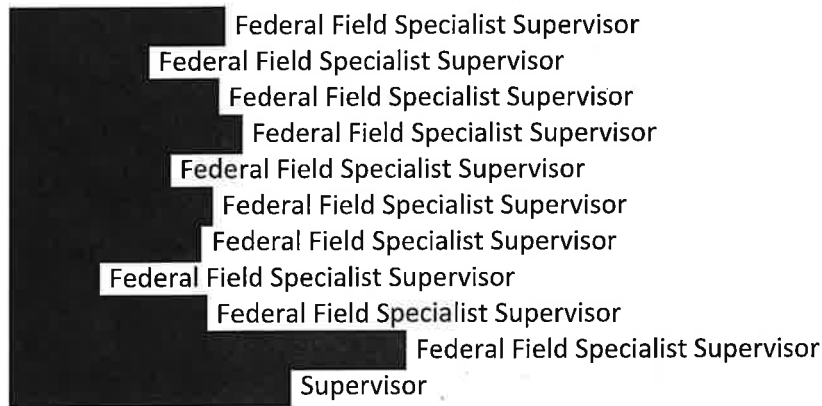
for example, do not appear to possess child-welfare expertise particular to the UC population. In many instances, tenured ORR career staff that can operate as SMEs in the field of child-welfare with unaccompanied children are overlooked when making policy or practice changes in the program. ORR UC child-welfare SMEs do not occupy any leadership positions within the incident command structure. Persons from FEMA along with logistical and efficiency consultants occupy those spots. Senior child-welfare positions within the various command cells are non-existent. In fact, ORR staff who have been invited to sit on panels for policy discussions report back that our presence is more ceremonial than practical, as decision makers prioritize production-based models over the existing child-welfare based ones. In order to restore child-welfare as the foundation of the UC program, child-welfare professionals with particular experience in working with UC should be prioritized and equipped with the ability to shape policy and practice in command structures.

Conclusion

Thank you for taking the time to read this letter of concern. Please note that this letter highlights the major points of concern that all the signatories agree upon. The points in this letter also represent many of the concerns that most ORR field staff report to us as their supervisors. As previously stated, our goal is to bring these concerns to the attention of leadership to create meaningful change by placing child welfare principles and best practices as the foundational structure when taking steps to manage this and future influxes.

At this time, a group of FFS Supervisors below are in the process of creating a white paper that we hope will offer suggestions for specifically rectifying the issues we see. However, should you wish to engage us in further discussion regarding this letter, we are open – as a group – to discussing it.

Respectfully,

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