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S. Hrg. 114–290

ADEQUACY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES' EFFORTS TO PROTECT UNACCOMPANIED ALIEN CHILDREN FROM HUMAN TRAFFICKING

HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

JANUARY 28, 2016

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Committee on Homeland Security and Governmental Affairs

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ADEQUACY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES' EFFORTS TO PROTECT UNACCOMPANIED ALIEN CHILDREN FROM HUMAN TRAFFICKING

THURSDAY, JANUARY 28, 2016

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Rob Portman, Chairman of the Subcommittee, presiding.

Present: Senators Portman, McCain, Lankford, Ayotte, Johnson, McCaskill, Tester, Heitkamp, and Carper.

Staff present: Brian Callanan, Matt Owen, Rachael Tucker, Margaret Daum, Mel Beras, Kelsey Stroud, Will Council, Richard Marquez, Crystal Higgins, Brandon Reavis, Eric Bursch, Liam Forsythe, Stephanie Hall, Mark Delich, Quin Roberts, Molly Sherlock, Monica Carmean, Sarah Seitz, Samantha Roberts, Holly Idelson, Melissa Egred, Brooke Ericson, and Joske Bautista.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. This hearing will come to order.

Six months ago, many of my constituents in Ohio opened their morning papers to read the shocking news that law enforcement had discovered a human-trafficking ring operating in Marion, Ohio—a small town about 50 miles north of Columbus, Ohio.

Six defendants were charged with enslaving multiple victims, including more than six migrant children from Guatemala, on egg farms in Marion County, Ohio. The details of the crime laid out by U.S. Attorney Steve Dettelbach were chilling. Traffickers lured the child victims to the United States with the promise of schooling and a better life. The parents of some of the victims even signed over the deeds to their properties back home as collateral for debt incurred to pay for the journey. But not long after their arrival, these children—some as young as 14 years old—were forced to work 12 hours a day, 6 to 7 days a week. The work was grueling. And the living conditions were squalid, with children packed into a dilapidated trailer. They said that some of the kids were living on mattresses underneath the trailer.

To compel them to work, the traffickers withheld their paychecks and threatened their families. As the indictment lays out, the de-

fendants, and I quote, "used a combination of threats, humiliation, deprivation, financial coercion, and debt manipulation" to create "a climate of fear and helplessness." Five of the six defendants have now pled guilty.

It is intolerable that human trafficking—modern-day slavery—could occur in our own backyard in the 21st Century. But it does. What makes this Marion case even more alarming is that a U.S. government agency was actually responsible for delivering some of the victims into the hands of their abusers.

In 2014, more than six of the children found on the Marion egg farms traveled, without their parents, across Central America to our Southern Border. When they arrived here, they were entrusted to the U.S. Department of Health and Human Services (HHS), like thousands of other unaccompanied children (UAC) who have been detained at the border. Under Federal law, it is then HHS' job to find and vet a relative or trusted family friend to care for the child until their immigration court date or else house them in safe shelters. Instead, HHS delivered the Marion children into the hands of a human-trafficking ring that forced them into these slave labor conditions we talked about.

How could this have happened in America?

After the release of the indictment last summer, Senator McCaskill and I launched an investigation to find out. How did HHS hand over a group of children to human traffickers? Was it a tragic failure to follow agency procedure in each of these cases? Or was the problem that the agency's procedures do not work and need reform? These were very important questions not only because of the Marion cases, but because of the number of additional children who are at risk.

Over the past 2 years, HHS has placed about 90,000 migrant children—the vast majority from Central America—with adult sponsors in the United States. That surge of migrant children coming into the United States illegally is a topic of some debate. There is certainly evidence that this Administration's executive actions on immigration encouraged the surge. But whatever your views on immigration policy, everyone should be able to agree that the Administration has a responsibility to ensure the safety of the migrant kids that have entered government custody until their immigration court date.

Unaccompanied children are uniquely vulnerable to human trafficking because many are in debt to the smugglers who arrange for their passage. The risk is that the smugglers may then force them to work off that debt once they arrive. That is why Federal law specifically provides that HHS protect these kids from traffickers and others who seek to victimize them.

We investigated these protections as part of a thorough, 6-month, bipartisan inquiry. The Subcommittee requested and reviewed thousands of pages of child placement case files, internal emails, and other documents from HHS. We interviewed several senior officials at HHS; we consulted with experts in child welfare and trafficking protections. That bipartisan staff report has been issued today, and it details the troubling findings from that inquiry.

Our conclusion is that the Department of Health and Human Services' process for placing unaccompanied children suffers from

serious, systemic failures. The horrible trafficking crime that occurred in Marion, Ohio, could likely have been prevented if HHS had adopted common-sense measures for screening sponsors, and checking in on the well-being of at-risk children—protections that are standard, by the way, in foster care systems run by all the States, including Ohio.

And, unfortunately, the systemic defects that contributed to the Marion cases appear to have exposed unaccompanied minors to abuse in other cases reviewed by the Subcommittee.

First, the victims of the Marion traffickers were placed with alleged family friends or distant relatives—which are known as "Category 3" sponsors. As it turned out, the sponsors were not really family friends at all. Two of them were basically sponsors for hire—strangers hired by human smugglers just to get the child out of HHS custody and then immediately pass them on to the traffickers. HHS did not know that, though, because it does not insist on any real verification of the supposed relationship between the sponsor and the child, apart from the say-so of a relative. One Marion case file actually contains no explanation at all of the child's relationship with the sponsor or his family. We learned that this kind of lax relationship verification is standard practice in Category 3 placements. A lost opportunity to protect these kids and others.

Second, HHS missed obvious indications that the sponsors in the Marion cases were accumulating multiple unrelated children—a sign that should have triggered greater scrutiny for risk of trafficking. Our review of the Marion case files reveals an interconnected web of sponsors of multiple children sharing the same address. HHS failed to connect any of these dots.

Third, remarkably, HHS did not visit a single sponsor's home to interview the sponsors and assess the proposed living conditions before placing them. We have learned that home studies are universally conducted in foster care placements—a close analogy to this situation—but HHS has done them in only about 4 percent of these unaccompanied children placements over the past 3 years. Only about 4 percent. This policy, of course, places thousands of children at risk every day.

Fourth, HHS' procedures for what to do after a child is placed with a sponsor also failed. Only one victim of the Marion human-trafficking ring was the subject of any kind of post-release home visit to check on the child's well-being. But, shockingly, the adult sponsor was allowed to block the child welfare worker, on contract from HHS, from visiting that child, even after the caseworker discovered the child was not living at the home on file with HHS. As a result, the government missed another opportunity to uncover the crime being perpetrated. Incredibly, this was not a mishap. It is official HHS policy. HHS allows sponsors to refuse post-release services offered to a migrant child—even to bar contact between the child and an HHS Office of Refugee Resettlement (ORR) care provider attempting to provide those services. Basically, when a sponsor says no, the caseworker is instructed simply to write, "Case closed."

Finally—and this is hard to believe—at the time of these cases, if a potential sponsor said on his application that he lived with

three other adults, and that if anything happened to him, a backup sponsor could care for the child, which is sometimes required, HHS policy was not to conduct background checks of any kind on any of the sponsor's roommates or the backup caregiver listed on the form. None. Background checks were only run on the sponsor himself. And this is even more incredible to me: If that check turned up a criminal history, HHS policy was that no criminal conviction, no matter how serious, automatically disqualified a sponsor.

On these points, however, I can report that in response to our 6-month investigation, just this week HHS strengthened its criminal background check policy effective January 25—as outlined in our report. This is progress. But I continue to be troubled by the fact that HHS told us that it is literally unable to figure out how many children it has placed with convicted felons, what crimes these individuals committed, or how that class of children are doing, how they are faring today.

The bottom line is that this is unacceptable. HHS has placed children with non-relatives that have no verified relationship with the child, who receive no home visit or in-person interview, whose household members have unknown backgrounds or criminal records, and who can freely cutoff social workers' access to the child. Worse, when senior HHS officials were alerted to trafficking risks due to the Marion cases and other evidence of children working in debt labor, they failed to adequately strengthen their policies—despite the fact that the Senate Appropriations Committee tells us that HHS has more than $350 million in unspent funds for this very program over the past 2 years. That is for this program, $350 million in unspent funds.

Perhaps the most troubling, unanswered question is this: How many other cases are there like the Marion trafficking case? The answer is HHS does not know. The Subcommittee has reviewed more than 30 cases involving serious indications of trafficking and abuse of unaccompanied children placed by HHS over the past 3 years. But human trafficking occurs on a black market, and other forms of abuse occur in the shadows. The Department maintains no regular means of tracking even known cases of trafficking or abuse, and it does little to monitor the status or well-being of the tens of thousands of children it has placed. There are, in the words of one leading care provider, untold numbers of effectively "lost" migrant children living in the United States.

What I can say with confidence is that HHS' policies expose unaccompanied minors to an unreasonable risk of trafficking, debt bondage, and other forms of abuse at the hands of their sponsors. That must change. Today we will seek answers from the Administration and discuss a path forward toward what I know is our shared goal of strengthening this system to protect every child in America.

Without objection, the joint staff report and the appendix to the report will be made part of the record.[1]

With that, I will turn to our Ranking Member, Senator McCaskill, for her opening statement. And I want to thank Senator McCaskill for being a good partner on this investigation, for work-

[1] The staff report referenced by Portman appears in the Appendix on page 101.

ing very hard on this issue, and for her passion for these kids. Senator McCaskill.

OPENING STATEMENT OF SENATOR McCASKILL

Senator MCCASKILL. Thank you, Chairman Portman. I want to thank you for bringing the topic of this hearing and the Subcommittee's investigation to our top priority at this moment. It has been a cooperative and bipartisan investigation, and I appreciate as always the opportunity to work with you to bring these issues to light.

If the Ohio cases that Senator Portman just described represented the total number of unaccompanied children exploited by their sponsors, we would be justified in holding this hearing. As the Subcommittee has discovered, however, the unaccompanied children who were trafficked in Marion are only a few of those who have fallen prey to trafficking or abuse by their sponsors.

I find the situation in front of us today unacceptable, and I am disgusted and angry.

HHS placed one 16-year-old with a sponsor who claimed to be her cousin. In fact, he was completely unrelated to her and had paid for her to come to the United States as a mail-order bride. The minor, who had endured a sexual assault in her home country, was forced to have sex with her sponsor. She appealed to a post-release services provider for help and was ultimately removed by Child Protective Services (CPS).

In another case, a 17-year-old was released to an unrelated "family friend" who reported living with three additional unrelated adult men. HHS released this teen to the sponsor without conducting background checks on any of the unrelated adult men with whom he would be living, without conducting a home study of his sponsor's home, and without providing any post-release services. Last June, this minor contacted HHS to let the agency know that his "sponsor" was actually the son of a labor recruiter, who had approached the teen in Guatemala about an opportunity to work in the United States. Upon being placed by HHS with the sponsor, the minor was forced to work 12 hours a day in conditions that made him sick, literally sick. The teen ultimately ended up living in a home belonging to his employer, along with 14 other employees, before running away.

Similar examples fill the case files reviewed by the Subcommittee, and keep in mind, we only reviewed a fraction of these files and found so many objectionable situations. We only looked at a fraction. Vulnerable and traumatized minors abused by their sponsors or forced to engage in backbreaking labor for little or no pay, while being housed in unsanitary and dangerous conditions.

This is not just a failure of our moral obligation to protect the most vulnerable. It is a failure of a legal obligation as well. Under the 1997 Flores Agreement, the Trafficking Victims Protection Reauthorization Act (TVPRA), and other statutes, HHS has responsibility for ensuring that unaccompanied minors are released to sponsors capable of providing for their physical and emotional well-being. At a minimum, HHS must make an independent finding that the child's sponsor "has not engaged in any activity that would

indicate a potential risk to the child." For many children, HHS failed to fulfill this fundamental responsibility.

The Subcommittee's investigation also revealed that HHS has failed to address systematic deficiencies in their placement processes, even after these deficiencies were highlighted by the Ohio case. In many cases reviewed by the Subcommittee, HHS failed to ensure that the relationship between a child and a proposed sponsor was even properly verified, failed to detect individuals who attempted to sponsor multiple children, failed to ensure sponsors had adequate income to support the child under their care, failed to conduct background checks on all the adults living in a sponsor's home, as Senator Portman mentioned, and failed to employ home studies and post-release services to detect red flags for abuse and trafficking.

In addition, the Subcommittee found that HHS does not even maintain regularized, transparent guidelines governing the placement process and has not established specific policies and programs to protect unaccompanied minors from traffickers—despite a clear mandate from Congress in 2008 to do so.

Further, HHS has failed to fulfill its obligation to clarify its role in the UAC placement process with respect to the other various Federal agencies—and this is what really drives me crazy. HHS to this day is claiming once they put this child with a sponsor in Category 3, they have no more legal responsibility. Are you kidding me? And, by the way, the Department of Homeland Security (DHS) kind of says the same thing. Well, that is HHS because they are children. Somebody is going to step up as a result of this hearing and take full and complete responsibility of these minor children that we have in our country.

Nothing breaks my heart more than the notion that these parents and their children facing unspeakable problems in their home countries took a risk that every parent in this room cannot even imagine taking. They said, "Yes, take my child. I want this child out of this country because I love this child so much." And they believed America was someplace that they would be safe and maybe have a future. And we have two Federal agencies that have abdicated their responsibility for the welfare of these children.

Now, much of it was to try to get them out of detention. And, by the way, everybody needs to understand there are categories, and if it is a relative or someone that is easily verified as a relative, that is Category 1 and 2. But keep in mind, if somebody cannot prove Category 1 or 2, they put them all in Category 3 when you did not have to prove anything. They reduced the time of home studies from 30 days to 10 days for one reason: Get them out of detention. Understand, these children, as we will hear today in this hearing, are in caregiving facilities where they are visiting museums and they are playing soccer and they are getting three meals a day. What is wrong with keeping these children in detention longer in order to make sure that we are not placing them with someone who is going to illegally use them as child labor or in sex trafficking. The priorities here are all out of whack.

I am not going to finish my formal prepared statement. I will enter it into the record,[1] because, frankly, I think it is important that all of us today quit thinking about what is on paper and think about these children and how hopelessly lost they are when someone shows up knowing that nothing is going to happen and says, "Yes, I will sponsor that child," and then they stick them in a trailer and have them clean chicken coops 12 hours a day, 7 days a week, for no money.

We can do better in the United States of America. And I know there are not people at HHS or DHS that wanted this outcome. But because no one stepped up and took responsibility, that is the outcome we are dealing with. And we have to get it fixed, and we have to get it fixed now.

Thank you, Mr. Chairman.

Senator PORTMAN. Thank you, Senator McCaskill. Thank you for your work and your staff's work on putting together a comprehensive report that I encourage everyone to read and for your passion for this issue.

We are now joined by the Chairman and Ranking Member of the full Committee. I appreciate them being here. I would like to offer them the opportunity to make some brief comments before we go to the witnesses.

OPENING STATEMENT OF CHAIRMAN JOHNSON

Chairman JOHNSON. Thank you, Mr. Chairman. I want to commend you and the Ranking Member on instigating this investigation and this oversight. I share your outrage. This is shameful what has happened.

I think you all know I am kind of big into facts and figures and root causes, and, Mr. Chairman, you asked how this happened. And, again, your investigation shows the detail of what went wrong within the agencies.

I guess I want to in my opening comments here kind of pull back and talk about the larger cause or causes of these tragedies, really.

I would first say that the first proximate cause of this is how we have been handling the crisis of unaccompanied children. What has happened is we have become more—it is being swept under the rug. Remember when this was a big issue a couple of years ago? And, by the way, we have the chart[2] up here, in 2014, here we hit over 50,000 unaccompanied children coming in from Central America.

But what has happened in that intervening time period and why it is not in the news so much anymore is we have gotten more efficient at apprehending, processing, and dispersing. And, unfortunately, we are processing and we are dispersing children into these horrific circumstances. So there is one proximate cause, our efficiency in sweeping this crisis under the rug because we are also sweeping the crisis under the rug because we do not want to really recognize what I think is the root causes of this surge.

Now, I realize there are legitimate differences of opinion in terms of what is the proximate cause of that surge. But just take a look

[1] The prepared statement of Senator McCaskill appears in the Appendix on page 57.
[2] The chart referenced by Senator Johnson appears in the Appendix on page 416.

at that graph. In 2009, 3,300 unaccompanied children; 2010, 4,400; 2011, 3,900. And then in 2012, President Obama issued his Executive memorandum, Deferred Action on Childhood Arrivals (DACA), which, regardless of what the memorandum actually says, sent a very strong signal to children and families in Central America that if you get into America, you are going to be able to stay. And the reality is, again, regardless of what the memorandum says, if they get into America, they are able to stay. They are processed, they are dispersed into some of these horrific circumstances.

Take a look at the figures. The 28,000 that came in 2015, 3.6 have been returned. Of the 51,000 in 2014, 2.6 have been returned. So these children and these families, they use social media. They communicate with people back in Central America. The reality is they know if they get into America, they are able to stay.

So, again, I guess we kind of all breathed a sigh of relief in 2015 that there were only 28,000 unaccompanied children. A lot of families are coming in here as well. But, again, 28,000 versus a few thousand in 2009, 2010, and 2011.

Now, let us put up the next chart,[1] because this is what we have to be concerned about.

Again, the numbers actually came down in 2015. Look at where we are in just the first quarter of 2016. 2014, the massive surge, the crisis level, we had, again, a total of 51,705 in that entire fiscal year (FY). But in the first quarter there were about 8,600. We are already up to 14,000 in the first quarter of 2016. Why isn't this big news?

Again, it is because we have become more efficient at apprehending, processing, and dispersing, and we see the horrific results of that efficiency.

So, again, we have to recognize what our policies are doing. We took a trip down to Central America and visited Guatemala and Honduras with Senator Heitkamp, Senator Carper, and Senator Peters. In meeting with the President of Honduras, one of his requests of our delegation was, "Would you please look at your laws and end the ambiguity in your laws that actually incentivize our children, their future, from leaving their countries and coming to America?" And, again, the tragedy is they come into some of these circumstances because, let me repeat it one more time, we have become efficient at processing and dispersing and sweeping this under the rug. We have to end that sweeping under the rug process, recognize reality, and change our laws.

Thank you, Mr. Chairman.

Senator PORTMAN. Thank you, Chairman Johnson.

Ranking Member Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks so much. My thanks to you and to Senator McCaskill for holding this hearing and to our witnesses for being here.

There have been news accounts of late that certainly caught my eye and probably the eyes of some of you as well. The report said that the number of folks who are here illegally has actually begun

[1] The chart referenced by Senator Johnson appears in the Appendix on page 417.

to drop, which almost seems counterintuitive when you think about, as we are mindful of the flow of immigrants from Honduras, Guatemala, and El Salvador; we are mindful of the President's proposal to bring in last year 2,000 Syrian refugees, this year 10,000 refugees. And yet that number of illegal immigrants in this country appears to be dropping. At first I did not believe it, but now I am convinced it is true.

The question one might ask is: Well, why? Why is that happening? And as it turns out, if you add together the countries of Honduras, Guatemala, and El Salvador, compare them to Mexico, my recollection is that the combination of those three countries that make up the Northern Triangle may add up to 25 million people.

Let me see. What is the population of Mexico? Do you know. Does anybody know? I think it is under 200 million. That is a lot of people.

Senator MCCASKILL. Ten million just in Mexico City.

Senator CARPER. It is probably close to 200 million. So roughly eight times more people live in Mexico than in these three countries combined, and there are more people going back into Mexico than there are Mexicans now coming into the United States. And that is why the net flow is actually dropping, and the number of citizens here is actually dropping.

Two weeks ago today, I was in Guatemala with the Vice President and Secretary Jeh Johnson. We met with the Presidents of those three countries to talk about their Alliance for Prosperity—it is their version of Plan Colombia—which they have committed to implement to focus on governance, fixing governing institutions, to focus on security, corruption, lack of rule of law, impunity, and the last one is just to focus on economic development, how to create a more nurturing environment for job creation and job preservation, which depends a lot on, frankly, winning the war against corruption and criminal behavior. That is their game plan. They developed that.

What we have done in sort of a counter-response is almost like Home Depot: You can do it, we can help. All right? They can do this stuff. It is laid out in their Alliance for Prosperity. And what we need to do is a number of things that are actually funded in the omnibus bill that we passed last year, about $750 million to support—not to give money to these countries, but the taxpayer dollars from these countries, that $750 million is not going to go to Honduras, Guatemala, and El Salvador's Governments. They will go to other entities. It will actually focus on corruption, rule of law, courts, prosecutors, prisons, and focus on economic development and so forth. I think it is a smart approach.

So as we focus here on a terrible situation which violates for me the Golden Rule, which violates for me Matthew 25, the least of these, obviously we have to be concerned and care a hell of a lot about what is going on that is shameful. But at the same time, we have to be able to walk and chew gum at the same time, and part of what needs to go on is we need to help these countries, these three countries, which make up about one-eighth the population of Mexico, get their act together and turn themselves around as Colombia has. They can do it, and we can help.

Thank you very much, Mr. Chairman. Thank you, Claire.

Senator PORTMAN. Thank you, Senator Carper.

I would now like to call our first panel. Mark Greenberg, who is here with us this morning, is the Acting Assistant Secretary for Administration for Children and Families (ACF), which is part of the Department of Health and Human Services. He was previously Deputy Assistant Secretary for Policy at the Administration for Children and Families. Before joining HHS, Mr. Greenberg was the Director of the Georgetown University Center on Poverty, Inequality, and Public Policy and was a senior fellow at the Center for American Progress.

Bob Carey is also with us this morning. He is the Director of the Office of Refugee Resettlement at the Department of Health and Human Services. He previously served as vice president of resettlement and migration policy at the International Rescue Committee.

I appreciate both of you for being here this morning, and I look forward to your testimony. It is the custom of this subcommittee, as you know, to swear in all of our witnesses. At this time I would ask you both to stand, please, and raise your right hands.

Do you swear the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. GREENBERG. I do.

Mr. CAREY. I do.

Senator PORTMAN. Thank you. Let the record reflect that the witnesses answered in the affirmative.

Gentlemen, all of your written testimony will become part of the record in its entirety. We would ask you to try to limit your oral testimony to 5 minutes.

Mr. Greenberg, I would like you to go first.

TESTIMONY OF MARK GREENBERG,[1] ACTING ASSISTANT SECRETARY, ADMINISTRATION FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; ACCOMPANIED BY ROBERT CAREY, DIRECTOR, OFFICE OF REFUGEE RESETTLEMENT, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. GREENBERG. Chairman Portman, Ranking Member McCaskill, and Members of the Subcommittee, thank you for inviting us to testify today. I am Mark Greenberg. I am the Acting Assistant Secretary at the Administration for Children and Families, and with me is Bob Carey, the Director of the Office of Refugee Resettlement.

One of ORR's principal goals is to ensure that all unaccompanied children are released to sponsors who can care for their physical and mental well-being. The number of children that have been referred to ORR's care over the last number of years has grown significantly, and HHS has worked hard to adapt to this rapid increase in the size of the program, bringing on additional staff, expanding the network of providers, and adjusting a number of policies to respond to the unexpected fluctuations in migration, the

[1] The prepared statement of Mr. Greenberg appears in the Appendix on page 61.

needs of the children, and the challenges of managing a program that grew nearly tenfold over a 3-year period.

I want to be clear that we view the Marion, Ohio, labor trafficking case as a deeply dismaying event. Child safety is a priority for us. We are committed to continuing to make revisions to strengthen our policies, to learn all that we can from this and our ongoing experiences in operating the program.

As I explained in my written testimony, I cannot discuss the specific details of the children in the Ohio case due to the ongoing criminal investigation, but we will continue to assist the Subcommittee in its work.

In the next few minutes, I do want to talk briefly about ORR's process for placing unaccompanied children with suitable sponsors and then describe a number of steps that ORR has taken over the last year to strengthen our policies relating to the safety and well-being of children.

Unaccompanied children are referred to ORR by other Federal agencies, usually the Department of Homeland Security. They are generally cared for when they arrive in one of a network of ORR-funded shelters while staff works to determine if there is an appropriate sponsor a child can live with while awaiting immigration proceedings.

Under the governing law, HHS releases children in our care to parents, guardians, relatives, or other qualified adults. Most children are placed with a parent. Most of those who are not placed with a parent are placed with other relatives. We only turn to family friends if there is no suitable parent or relative. In all cases, when we make placements, we seek to balance the importance of timely release with safeguards which are designed to maximize safety.

ORR is continually working to strengthen its policies and procedures and in the last year took a number of steps to do so. Let me quickly highlight five changes that did occur.

First, for a number of years, ORR has operated a help line that had mainly been used by parents seeking to find out if a child was in ORR custody or for sponsors that had questions with legal proceedings. Last May, ORR expanded that help line so that it is available to children calling with safety-related concerns as well as to sponsors calling with family problems or child behavior issues or needing help connecting to community resources.

Second, the Trafficking Victims Protection Reauthorization Act, requires a home study before a child is released in four situations: when a child has been a victim of a severe form of trafficking, a special needs child with a disability, a child who has been a victim of physical or sexual abuse, or a child whose proposed sponsors presents a risk of abuse, maltreatment, exploitation, or trafficking. In July, ORR broadened the circumstances where home studies would be used to include all children age 12 and under being released to non-relatives or distantly related relatives. Later in July, ORR further expanded that requirement to apply in all cases where a non-relative has previously sponsored a child or proposes to sponsor more than one child to whom the sponsor is not related.

Third, under the TVPRA, ORR must offer followup services or post-release services in cases where there has been a home study

and may offer such services for children with mental health or other needs that could benefit from ongoing assistance from a social welfare agency. In July, ORR began a pilot project to provide post-release services to all children released to a non-relative or a distant relative sponsor as well as to children whose placement has been disrupted or is at risk of disruption and is within 180 days of release and they have contacted the help line.

Fourth, in August last year, ORR started conducting check-in phone calls with sponsors and the unaccompanied child in their care 30 days after the child's release. The calls are intended to identify any issues concerning child safety and provide sponsors with resource assistance. If the provider believes that the child is unsafe, the care provider must report this to local child protection agencies and/or local law enforcement.

Fifth, ORR's longstanding policy had been to conduct background checks on other individuals living with a potential sponsor when a home study is conducted, and earlier this month, ORR enhanced its background check policy so that household members as well as backup care providers identified in a sponsor safety plan are subject to background checks in all cases.

I have highlighted five areas where we have made significant changes. We discuss additional ones in the written testimony. I want to emphasize that this is part of an ongoing process for us of continuing to review our policies to strengthen our safeguards as the program has expanded.

We appreciate the work that the Subcommittee has done. We look forward to continuing to work with the Subcommittee to strengthen the program, and we will be happy to answer any questions.

Thank you.

Senator PORTMAN. Thank you, Mr. Greenberg. Mr. Carey.

Mr. CAREY. Mr. Chairman, I do not have written testimony, but I am happy to answer any questions.

Senator PORTMAN. You do not wish to make a statement?

Mr. CAREY. No, I do not have a prepared statement.

Senator PORTMAN. OK. Let us start where we finished with our own opening statements, and we look forward to hearing from you, Mr. Carey, in response to our questions at least.

Senator McCaskill and I started this investigation because of these public reports that HHS has placed a number of these unaccompanied children into the hands of human traffickers, specifically this case in Marion, Ohio. When we learned the details of those cases, we were shocked by the fact that HHS had approved these placements, they had done so without really verifying the sponsors were who they said they were, without noticing the applicants were trying to accumulate multiple children, without even questioning, for instance, whether one sponsor had adequate financial means who reported on your form that this person was making $200 a week in income, without ever laying eyes on any of the homes that children would live in.

Here is one of those homes. This is a trailer you see behind Senator Lankford in Marion, Ohio, we talked about earlier. There were multiple children in that one trailer.

Worse, when a child welfare worker discovered that one child did not really live where he was supposed to live, the sponsor refused to allow any followup services, just said, "No, you cannot even check on this child." And HHS policy was to say, Fine, you can block these child welfare workers who are on contract with HHS. Close the case. Do not do anything. That was policy.

I have to tell you that when I heard those details for the first time, I thought it sounds like everything that could go wrong did go wrong. But, Mr. Carey, your Deputy Director in charge of the unaccompanied children program told our lawyers that, one, she was unaware of any failure to follow HHS policy in the Marion cases; and, two, that she was unaware of any alternative practices that would have led to a different outcome.

So I guess what I want to ask you both this morning—and I want an answer yes or no—is whether you agree with those conclusions from your Deputy.

So, first, do each of you believe that HHS policy was followed in the Marion cases? Yes or no, please. Do you agree that HHS policy was followed in the Marion cases?

Mr. GREENBERG. I have been advised by staff that it was followed, the policy that was in effect at the time. I do want to emphasize, as you heard in my remarks and per my testimony, that we have made a number of——

Senator PORTMAN. So your answer is HHS policies were followed.

Mr. Carey, what is your answer?

Mr. CAREY. I was not at ORR at the time, but I was informed that policies that were in place at the time were followed for these cases.

Senator PORTMAN. So this was based on policy, these horrible situations we have talked about. It is HHS policy that if a child turns out not to live where the sponsor says they will and a caregiver offering post-release services wants to contact the child and make sure he is OK, the sponsor can refuse those services and block access to actual child. Does that offend you? It just does not seem like common sense.

I would ask, does anybody in the room think that that is offensive? Raise your hand if you think that is wrong, that you cannot even check on a child.

[Hands raised.]

Mr. GREENBERG. Senator Portman, I do want to be clear that we are following the law that Congress enacted. Our reading of the law is that we do not have the authority to make these visits mandatory.

Senator PORTMAN. Congress enacted a specific law to avoid these kind of cases. In fact, you just talked about it, and you said that if a kid is at risk of trafficking, you have to provide these additional services, and you did not do it. So that is just not accurate.

Let me ask you the second question. Do each of you agree with your Deputy that there are not any alternative practices that would have led to a different outcome? Yes or no.

Mr. GREENBERG. Senator Portman, I cannot speculate——

Senator PORTMAN. Just yes or no.

Mr. GREENBERG [continuing]. For an individual case as to whether that would have been the circumstances——

Senator PORTMAN. But, Mr. Greenberg——

Mr. GREENBERG. I cannot talk about——

Senator PORTMAN [continuing]. You are a guy who has concern for these kids. You have a history of working in this area. You do not think that there could have been a better outcome with alternative practices?

Mr. GREENBERG. What I can emphasize is that we are continually looking at how to strengthen our practices. As I have described, we have taken a number of steps over this last year to do so. I cannot for any specific case say if this practice had been in place, it would have made a difference. We absolutely want to ensure that we have the needed policies and practices in place, and we welcome the Committee's recommendations to us for additional ones that we should consider.

Senator PORTMAN. Mr. Carey, do you agree with your Deputy that there are not any alternative practices that would have led to a different out?

Mr. CAREY. We are deeply concerned about the well-being of all of the children in the care of ORR and do the utmost in our power——

Senator PORTMAN. But let me ask you if you can answer the question yes or no, please. You are under oath. We have asked you to come here to testify. You did not do an opening statement. At least answer the question.

Mr. CAREY. The procedures in place at the time were followed. There are additional procedures that have been in place since that time. I would be reluctant to speculate what an impact on an ongoing criminally——

Senator PORTMAN. The Deputy says she is unaware of any alternative practices that would have led to a different outcome. Do you agree with that, yes or no?

Mr. CAREY. I would be reluctant to speculate about what might happen in a case that is part of an ongoing investigation.

Senator PORTMAN. Wow. Mr. Greenberg, I want to ask you about a particular policy you have heard a lot about, the Department's policy about home studies. As I think one of the other witnesses here today will tell us, State foster care systems, which are a pretty close analogy to what you do, never put a child in a temporary home without laying eyes on the living environment. HHS performed in-home reviews in only about 4 percent of the cases over the last 3 years. That is information you gave us, 4 percent.

If you would turn to page 212 of the Appendix of the staff report, you will see an email exchange. This is the appendix to the report, page 212. Do you recognize this email exchange, page 212?

Mr. CAREY. The report has not been shared with us, Senator.

Senator PORTMAN. We gave you copies of this email. Let us provide additional copies of the email. Clerk, could you please provide those?

Mr. GREENBERG. Yes, and I am reviewing the email now, Senator.

Senator PORTMAN. OK. You have the email. OK, good.

[Pause.]

My question to you is: Do you recognize this email chain? It is with you. Do you recognize it? Just yes or no.

Mr. GREENBERG. Yes, it certainly appears to be our email.

Senator PORTMAN. OK. Let me put this in context. Last summer, ORR was considering expanding home studies—in other words, to actually go and look at these places like this trailer—and decided to require them when a child under age 13 is placed with a non-relative. When that proposal came to you as head of the Administration for Children and Families, you wrote an email to ORR leadership raising concerns about it. Here is what you wrote: "I assume the reason for under 13 is that it is a smaller number for a pilot and that we will have the greatest concern about young children less able to communicate about their need for help. Right? But this is probably less likely to pick up the debt labor group." That is what we are talking about here this morning, the debt labor group, these kids who were forced to work to pay off this debt. "Do you think it would just go too far to extend to all children going to non-relatives?" A sensible question.

So, Mr. Greenberg, I assume you meant here that kids 13 and older are more likely to be expected to work and, therefore, more likely to be forced to work off debt to coyotes and to traffickers. Is that right?

Mr. GREENBERG. Yes, it is, Senator.

Senator PORTMAN. And here you are saying that ORR's policy change is not likely to help kids most vulnerable to labor trafficking. Is that right?

Mr. GREENBERG. It is on that specific policy.

Senator PORTMAN. OK.

Mr. GREENBERG. I have noted a number of additional policies.

Senator PORTMAN. You are onto something, common sense. So in light of the trafficking risk you identified, you sensibly asked ORR, "Shouldn't we be performing home studies on all non-relatives?" This is on page 211 of the appendix. In response, ORR Deputy Director in charge of the unaccompanied minors program wrote back to say this: "You are correct about why we chose the younger children and risks associated with the older children not being included."

In other words, she said, yes, you are right, we are leaving out those kids who are most vulnerable to this debt bondage. That is exactly what happened. HHS approved the policy change without expanding home study to kids older than 13, despite you all knowing what you were doing for these kids who were in the kind of situation we are talking about here today in Marion, Ohio.

So my question to you is very simple: Do you think home studies might have prevented the tragedy in Marion? If you had gone and seen multiple kids living in a trailer like this, do you think there would have been a different result?

Mr. GREENBERG. Senator, as I indicated——

Senator PORTMAN. Yes or no.

Mr. GREENBERG. I simply cannot speculate as to whether a particular policy would have resulted in a different result. What I can say and what you can see in my email is that we were exploring circumstances under which we could expand the use of home studies. I expressly raised to staff the question as to whether we should be doing home studies for all cases involving non-relatives——

Senator PORTMAN. And your staff apparently disregarded that, and they did not follow that policy. And I guess, if you cannot say this would have prevented the tragedy in Marion, then I think that just defies common sense. Remember, much of these sponsors were sponsors for hire by traffickers. And a bunch of unscrupulous people were trying to accumulate multiple children. That was obvious from any review. You did not even have to have a home visit to see that. If you had looked at the files, the same address appeared on multiple applications. One of the sponsors appeared on another sponsor's applications under an alias. I just cannot believe you would not think that home visits would have revealed what was going on. It just defies common sense.

Mr. GREENBERG. Senator——

Senator PORTMAN. I have gone over my time. I am now going to ask my Ranking Member, Senator McCaskill, if she has questions for the panel.

Senator MCCASKILL. OK. Just briefly, before I get into my questioning, I want to say that DACA was not ambiguous. Children here 2007 or earlier. This hearing is not about DACA. This hearing is about those children who appeared at our border, who came into our country, and, frankly, no matter how you feel about the border, no matter how unrealistic your ideas might be about Mexico building us a wall, no matter how you feel about immigration, the bottom line is when a child is admitted into our country, the United States of America should be an example to the world about how we care for those children. Maybe they end up not staying here forever. Maybe they end up being deported eventually for some reason or other. But while they are here, we have an obligation that is in the foundation of what our country is to protect them.

Now, in 2008, Congress directed several Federal agencies, including HHS—and you are a Harvard-educated lawyer, Mr. Greenberg, so I know you have read this law. It says very clearly, "These Federal agencies"—Congress says this in the law—"must establish policies and programs to ensure that unaccompanied alien children in the United States are being protected from traffickers." It is black-letter law, Mr. Greenberg.

My question for you: Have you established that policy or program specifically in response to this mandate from Congress in 2008? Yes or no.

Mr. GREENBERG. We have established a set of policies and practices which are responsive to that mandate from Congress and that are intended to address the protection and the safety of children.

Senator MCCASKILL. Well, Mr. Greenberg, first of all, does Mr. Carey work for you? Mr. Carey, do you report to Mr. Greenberg?

Mr. CAREY. Yes, I do.

Senator MCCASKILL. You do. So he is under you in terms of the organizational chart?

Mr. GREENBERG. That is correct.

Senator MCCASKILL. I was under the impression he was under the other Assistant Secretary who has not been confirmed.

Mr. CAREY. No. I report to Mr. Greenberg.

Senator MCCASKILL. OK. Well, that was not clear, by the way, and this is from staff that has been poring through your records and your org charts. So now we know. Can you fire Mr. Carey?

I am not asking if you are going to. I am asking if you can.

Mr. GREENBERG. I, frankly, do not know. I would need to talk with colleagues at the Department, and I certainly have no reason that I would wish to.

Senator MCCASKILL. Well, I do not want to disagree with you, but I have to say on the record that you have not established a direct policy or program in relationship to that. You have had drafts for years. How many years have there been drafts going around? You all have not been there that long, but you have to know, right? There has not been a draft—or there has not ever been a regulation posted for even commenting on this subject, has there, Mr. Greenberg?

Mr. GREENBERG. Senator McCaskill, I hope that you would both recognize the number of changes and improvements we have made in the last year——

Senator MCCASKILL. You made a great improvement 3 days ago. I am not sure it would have happened if it was not for this hearing, but you did. I mean, no question, in the last 6 months you guys have gotten busy. My question is: What has been going on since 2008? And why would you sit here and say the law does not give you any ability to protect these children when we specifically in the law in 2008 mandated that you do so?

Mr. GREENBERG. Senator McCaskill, I want to be clear that our efforts to improve safety and do more to address well-being for the children in the program began well before July. When I testified before this Committee last July, I described a number of these efforts at that time. It has been an ongoing process. It will continue to be. We look forward to reviewing the Committee's report and the Committee's recommendations for what else we can be doing to strengthen our efforts.

Senator MCCASKILL. Well, let me ask you a hypothetical. And, Mr. Carey, I would appreciate it if you would weigh in on this hypothetical.

A 15-year-old Guatemalan girl is released to "a family friend" as a sponsor under Category 3. She does not show up for her hearing. What happens? Mr. Carey.

Mr. CAREY. I cannot speak to the specifics of a case with which I am not familiar.

Senator MCCASKILL. This is a hypothetical case, Mr. Carey. This is not a real case. You can speak to the specifics of this. You are not going to be able to avoid every question here. Let us try again.

Mr. CAREY. Nor do I——

Senator MCCASKILL. Let us try again.

Mr. CAREY [continuing]. Intend to, Senator.

Senator MCCASKILL. A hypothetical. A 15-year-old Guatemalan girl is given to a Category 3 sponsor, "family friend," does not show up for her hearing. What happens? What responsibility do you have?

Mr. CAREY. ORR's responsibility does not extend to the legal representation or the legal presence at a hearing.

Senator MCCASKILL. Would it make you think, since Congress said in 2008 you guys are supposed to be having policies and program to protect these kids, would common sense tell you that

maybe if this child did not show up for the hearing, their sponsor is maybe not being responsible?

Mr. CAREY. Senator, our responsibilities with regard to anti-trafficking are put in force from the day a child arrives into our care. They are screened for trafficking. They meet with clinicians in individual and group settings many times over the course of their stay. Additional information is sought from every source available.

Senator MCCASKILL. So the answer is no, you have no responsibility, you do nothing if she does not show up for a hearing. You are trying to say all these things happen ahead of time. I am asking you what happens when she does not show up for her hearing. Does anybody call the sponsor? Does anybody decide that is time for a home visit? Does that occur? Mr. Greenberg.

Mr. GREENBERG. So in a hypothetical situation, if there are post-release services being provided, then there would be ongoing followup with the child——

Senator MCCASKILL. I am asking specifically if the fact—we know that the majority of children who show up for their hearings are allowed to stay in this country. We know that a much higher percentage of children are not showing up for these hearings if they are in Category 3. We know that. You know that, right? If you do not know that and I know that, we are really in trouble. You know that, right? Mr. Carey, you know that, right?

Mr. CAREY. We have limited information on the number of children——

Senator MCCASKILL. No, you have to be kidding me. You are telling me you do not know that? You have limited information? All you have to do is pick up the phone and ask somebody. That is what we did.

Mr. Greenberg, are you aware that Category 3 do not show up for their hearings as often?

Mr. GREENBERG. I have not seen information to that effect.

Senator MCCASKILL. OK. Well, I could go on for way too long, and I do not mean to be so hard on the two of you. You have good hearts, I am sure. But you have to step back from this. You have to step back from this and look. What everybody is doing is doing this, out the door, we are done. And you know what? The Department of Homeland Security says, they say, "When it is children, it is HHS." And you guys say, "Well, we put them with a sponsor. It is not us." So no one is using the failure to show at a hearing as a moment of realization that somebody is watching this child that is not being responsible for their welfare. And you know what happens when that child is finally picked up? They get deported no matter what. So, of course, they are not going to come up later because chances are if it is a bad-guy sponsor, he is worried about a whole lot of other potential consequences in his life.

So it is just when I read all of this information, I mean, I would expect you guys to read this stuff and have it all memorized before this hearing, what we have learned from you. And the fact that you are not aware that the chances of a Category 3 sponsor showing up is much diminished from other kinds of sponsors and that that should be a warning sign—and I want to know this: When, in fact—and I know neither one of you will answer this question, but I want it on the record. Here is the bottom line: She does not show

up for a hearing. There has not been a blanket of home visits. Or the sponsor says, "We do not want you anymore to look at us, we do not have to look at you anymore." And she ends up being trafficked on Backpage, another investigation we are doing, for sex. Whose fault is that? And if you guys think it is not your fault, if you think you bear no responsibility for that, I think you are wrong. I think you are flat wrong. And I would like to see a turn here at this hearing and all of a sudden say, "We should take responsibility," because somebody is going to take responsibility. If you need black-letter law, I can guarantee we can get it. But I think the black-letter law is pretty clear. I did not go to Harvard. I went to one of those public schools. I went to the University of Missouri. And I will tell you, when I read that law, I do not think I would have the nerve to say that Congress has not given us the authority to watch these kids.

Thank you.

Mr. GREENBERG. Senator McCaskill, may I respond, please?

Senator MCCASKILL. Yes, you may.

Mr. GREENBERG. Senator, as I have emphasized throughout, our overall concern is absolutely with the safety and well-being of the children. We are implementing a law that Congress has enacted. It is a law that simply did not envision that there were going to be home studies in every case. It did not envision that there were going to be post-release services in every case. Congress can choose to change the law to make it be that way——

Senator MCCASKILL. Wait a minute, wait a minute, wait a minute.

Mr. GREENBERG. If I could——

Senator MCCASKILL. Wait a minute. Establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers. What in the law is keeping you from establishing right now, putting up today—by the way, your program manual, we cannot even see it, what you are supposed to do. It is not even available to the public. But why don't you put up on the website today that you are going to have home visits every case when someone does not show up for a hearing? What keeps you from doing that as part of this policy and program? Why can't you go back today and do that?

Mr. GREENBERG. Senator McCaskill, I will be happy to go back and talk with our lawyers as to whether they believe we have——

Senator MCCASKILL. Well, I would love to talk to your lawyers.

Mr. GREENBERG [continuing]. The authority to do it.

Senator MCCASKILL. You are a lawyer. You know better. You know you can do that under this law.

Mr. GREENBERG. Senator McCaskill, I have had multiple conversations about trying to identify what our authority is and what else we can be doing. What we are talking about today is our understanding of our authority under the law. If the Committee or other Members of Congress want to work to change the law or to clarify our authority——

Senator MCCASKILL. Well, I need your lawyers to get me in writing, and I would like it within a week, what it is in the law that prevents you from doing a home visit when a Category 3 unaccompanied minor does not show up for their hearing. What keeps you

from doing a home visit? I want to know in the law what keeps you from doing that.

Mr. GREENBERG. We will followup and ask that question to our lawyers.

Senator PORTMAN. Thanks, Senator McCaskill. Of course, it is much worse than that because you have kids who actually told you, told HHS, that this sponsor was not a family friend; it was someone to "get me out of HHS custody." We have that information now from you all. We even have a situation where somebody said, "As soon as I got to the airport, HHS bought my plane ticket, the so-called sponsor took off and put me in the hands of other people." They have told you that.

So the situation Senator McCaskill talks about, of course, but it is even plainer than that. And, obviously, you have a responsibility here. I mean, you are not going to be able to say that there is not adequate legal basis for you to keep these kids out of the hands of traffickers when it is so obvious, when there was no check done.

So, I must say I am very discouraged by what I am hearing today because you continue to try to evade responsibility when it is so obvious. Senator Heitkamp.

Senator HEITKAMP. I just sit here and I wonder how we can possibly be having this conversation. How can we possibly not take in all seriousness the tragic situation of these children who are fleeing conditions that are unimaginable to us, coming to this country, believing this country has the ability to somehow protect them, but yet we sit here, important as what we are, Senators and high-ranking officials, saying we do not have the ability to protect kids, there is no law?

Mr. Greenberg, when you looked at this gap in so-called authority, which I agree with Senator McCaskill does not exist, but when you believed it existed, did you say, "My goodness, we do not have the ability to do background checks, we do not have the ability to do home visits on a sponsor, we need to go to Congress and get an emergency bill passed to protect children"? Did anyone in the administration have that conversation?

Mr. GREENBERG. Senator Heitkamp, what I can say is that we have had very active conversation——

Senator HEITKAMP. Do you understand why we are angry? Because every time we ask you a question, you got, "How am I going to answer that?" Answer it by telling us what conversations you had? This was your obligation to protect these children. What conversations did you have, beyond what we see here in these emails, that would suggest to us that you put the safety and well-being of these children, in a bill that was passed to prevent trafficking, you put the safety and well-being of these children first? What conversation did you have when you saw this obstacle that you have been telling Senator McCaskill that exists in the law to change the law so that you would actually have access? Because I can tell you, as a former State official, if the State ran a foster care program under IV–E like this, without home visits, they would not be getting IV–E dollars very long. There is no State agency that runs a foster care program like this.

I think we can completely appreciate the extent to which DHS was overrun. But going back again to Senator McCaskill's point,

this was 2008. This was not the big surge. This is a longstanding problem.

So what conversations—or let us ask you this from your opinion. Did you ever once think, "I need to get the law fixed because these children are not getting protected?" You have a strong background and a strong history in protecting children. Were you ever personally troubled by your inability to protect children?

Mr. GREENBERG. Yes. Let me say more to answer that directly. There was some discussion before about this should not just be a paper process, and for me this has never been a paper process. I can tell you that I have visited the Rio Grande Valley four times over the last 2 years. When I go, I talk with children, providers and their staff, and with advocates and I talk——

Senator HEITKAMP. And we all do. We have all been at the border, and I have spent time there. You came back from that does a great job. We are here to learn. So when you came back, listening to those children, what policy change, recommendations did you make at DHS to prevent this from happening?

Mr. GREENBERG. What I would emphasize is it is very clear the way the law currently works that we have limited authority around home studies, and limited authority around post-release services. I have conveyed that very directly to this Committee in my prior testimony. When I publicly talk about the program, I make very clear the limited role that HHS plays.

Senator HEITKAMP. I do not mean to belabor this, but, when I was Attorney General (AG), we have a boarding school, an Indian boarding school that we were hearing rumors about behaviors, and no one wanted to take jurisdiction. Everybody said, "No, that is somebody else." And I just thought somebody has to take responsibility for this. And so we just stepped into the void. And so, occasionally, don't you think it is smart, even when you see something involving the welfare of children, to step into the void, to challenge the legal ramifications and say let us do the right thing and sort it out later?

The problem that we have here is that there are bad people in this country, there are bad people all over the world, and, I would be remiss if I did not ask the question for Senator Tester who had to leave. So I just want to say, OK, now we have this horrible situation which has been revealed that is the subject of this hearing. And it is Senator Tester and my understanding that the egg farm is still in business. Is that true, the egg farm is still operating?

Mr. GREENBERG. I have no knowledge other than press accounts.

Senator HEITKAMP. OK. What do you think happens when this all gets swept under the rug, when we are trying to really get at the bad guys, get at the people who do this, who think that they can continue—because these kids are invisible, continue to operate with impunity, to operate businesses that are nothing short of modern-day slavery, when we do not report it, when we do not have testimony from these kids because the kids are in the wind, they are gone?

So my point, I guess, is that not only did we put kids at risk, but getting to prosecutions for people who do very bad things become impossible when we do not have the children protected. And so I would just say that I hope that what good comes out of this

hearing, which has been, I think, more contentious than any of us thought it would get, that you guys really take this back and say, What is the perfect system? Maybe we cannot always have the perfect system. But at least the worst State foster care system, can we do as good at the worst-case foster care system in the Federal Government when we are protecting children?

I look forward to your recommendations on what we can do not only from a law change but also from a resource management change.

Thank you, Mr. Chairman.

Senator PORTMAN. Thank you, Senator Heitkamp.

Senator Carper would like to make a brief comment about an earlier——

Senator CARPER. Yes, I just want to correct something for the record. Thanks so much, Mr. Chairman. I did an audible here when I spoke briefly earlier in the hearing and trying to explain why the numbers of illegal folks in this country was going down. And one of the reasons was because there are more people going from the United States into Mexico than the other way around. I mentioned I thought that Mexico had somewhere between 150 and 200 million people. They have 122 million people. If you add up the populations of Honduras, Guatemala, and El Salvador, it adds up to about just under 30 million people. So I think the difference in population is not 8:1. It is 4:1. But that helps to explain the changes in migration numbers.

Thank you.

Senator PORTMAN. Thank you. Senator Johnson.

Chairman JOHNSON. Thank you, Mr. Chairman.

Mr. Greenberg, according to your bio here, you joined the Administration for Children and Families in 2009. Is that correct?

Mr. GREENBERG. Yes, it is, sir.

Chairman JOHNSON. I want to kind of direct my questions to you because it coincides neatly with my chart where I date back to 2009. Again, just to remind you people, about 3,300 unaccompanied children came in; the next year, 4,400; then about 4,000; then it started ramping up.

I really want to just have you tell me what was happening within the agency during that time period. I want to understand the history of your manpower, how you grappled with this, kind of what started happening in 2012, 2013, 2014, when it really exploded.

Mr. GREENBERG. Senator Johnson, although I joined ACF in 2009, I did not begin to work closely with the program until I became Acting Assistant Secretary, which was late in 2013. I can certainly speak to what has happened since that time.

Chairman JOHNSON. OK. Well, do so. I want to hear to the extent this has just overwhelmed your management capacity.

Mr. GREENBERG. As I noted in my opening comments, the challenge for us was that the program did grow by nearly 10 times over a 3-year period. From about 6,000 kids, to nearly 60,000 kids. There is no question that in the summer of 2014, which was when I first testified before this Committee, we were facing a set of capacity issues about how to address the number of children that had

arrived and to ensure that we were able to provide adequate shelter for them.

It is also the case that after that situation got under control and as the numbers of kids went down, we did look broadly to say this is a program that has grown 10 times in 3 years, what are the things that we need to do to strengthen it? Part of that involved significantly expanding the staff of the Office of Refugee Resettlement. Part of that——

Chairman JOHNSON. So give me some numbers on that in terms of staff increases.

Mr. GREENBERG. I will ask Bob if he can say precisely, but approximately authorizing something in the range of about 70 additional staff.

Chairman JOHNSON. From what level? What was the baseline level to what? It went from where to where?

Mr. GREENBERG. I do not have the precise numbers in front of me. It was roughly 50-something full-time staff, some contractors, but it was roughly 50-something and adding another 70. I would ask Bob if he can respond to that.

Mr. CAREY. That is accurate. Approximately 70 were added over the course of the surge.

Mr. GREENBERG. One thing that we did was greatly strengthen our staffing. A second thing we did——

Chairman JOHNSON. So in 2009, we basically had about 50 people in this capacity, roughly, because you are not going to really change much. And that was to handle about 3,300 kids, 4,000, somewhere on that level. Then it started ramping up to 10,000 to 21,000 to 51,000, and we took the offices from 50 people to 70 people.

Mr. GREENBERG. No. We added 70 more——

Chairman JOHNSON. That is what I am saying, I mean 50 to 120.

Mr. GREENBERG. That is right.

Chairman JOHNSON. So another 70 people, manpower to handle literally 50,000, 51,000 more.

Mr. GREENBERG. In addition, over that time we were greatly expanding the number of grantees who were providing shelter for the children. To highlight the other things that happened, we increased staffing. When the prior Director of ORR left, we made the determination to have both an ORR Director and to create a Deputy Director for Children's Programs and to create a Chief of Staff to strengthen the overall efforts. We created a Policy Division within ORR. Senator McCaskill mentioned before the issue of policy. We were concerned in 2014 that our policy was not transparent and that it was not readily available, therefore we created a Policy Division. They have been working to post our policies on the website. There was also a reference to the need for rules. We are actively working on a Notice of Proposed Rulemaking. It is our full intent it will be out this year. All of those things happened.

In addition to that, I do want to emphasize that this set of things that we put in place around strengthening attention to child safety were things that we started doing later in 2014 and early in 2015. In addition to the ones that I talked about in my testimony, we strengthened the conditions under which we would do child abuse and neglect (CA/N) checks. We have put in place clear policies for

when criminal convictions will matter for purposes of disqualifying sponsors——

Chairman JOHNSON. OK. I am running out of time. OK, good.

Mr. GREENBERG. OK.

Chairman JOHNSON. As I said, again, just from the outside looking in, we have obviously gotten more efficient at handling the surge. I do want you to address what is currently happening in this first quarter. The fact that we went in 2014 from about 8,600 in the first quarter—again, 2014, to remind everybody, that was the biggest year, close to 52,000 unaccompanied children. So that year started at about 8,600 kids. This year it is already up to 14,000—not quite double. What is happening? What has been your reaction to that?

Again, we are not hearing the alarm bell sounding here, but I would think based on this Committee's report, their investigation, alarm bells should be sounding. So what is happening here? Describe the efficiency of how we are moving these kids and what is being, obviously, lost in the cracks in our efficiency.

Mr. GREENBERG. Between 2014 and 2015, the number of children fell from about 58,000 to 34,000. When I testified before the Committee in July, I talked about how the numbers had fallen. The numbers then began rising. Normally there is a spring-summer increase and then the numbers fall after that. The pattern that we saw this year did not correspond to that.

The numbers did continue to rise through the fall and through December. Our January numbers are lower than the December numbers, but there is no question that these were higher. We have actively kept appropriators aware of those circumstances. We have been looking for additional——

Chairman JOHNSON. Well, OK. So my time is done. My final comment is the true solution here is let us reduce and stop the flow, and that we have to really take a look at the policies in our own immigration laws that incentivize this behavior, and listen to the President of Honduras who said please end the ambiguity in our laws that is creating that.

Again, I would like to take the pressure off, but in order to do that, we have to really look to the real root cause and what is driving this and creating these kind of tragedies.

Thank you, Mr. Chairman.

Senator PORTMAN. Senator Lankford.

OPENING STATEMENT OF SENATOR LANKFORD

Senator LANKFORD. Gentlemen, let me bring up a couple things with you. The Trafficking Victims Protection Reauthorization Act of 2008, here is the statute: "the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services."

The care and custody of all unaccompanied alien children is the responsibility of Health and Human Services, including their detention, if needed.

Of the 90,000-plus children that are out there that have been put into care since 2008, if I were to ask you how many of those could you find right now, that we know where they are, how many of

those do you think you could find? Give me a percentage guess of the 90,000-plus that are out there. They were placed in a sponsor's home, either saying this is a parent or a relative or a non-relative sponsor. Of the 90,000-plus, how many of them do you think you would know where they are if I asked you to give me a phone number or an address, you could tell me.

Mr. GREENBERG. Senator, I could not guess on that. I can tell you that we have the information at the time of release. If the child is receiving post-release services, we will have continued information after that.

Senator LANKFORD. But you have no idea how many of them you could still contact today?

Mr. GREENBERG. We do not. Again, this is based upon our clear understanding of the law and what we are authorized to do under the law.

Senator LANKFORD. "The care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of . . . Health and Human Services." So I am trying to figure out the ambiguity in that. It would seem to be not just when they cross the border in that detention moment, but it is the care and custody. Once you have transitioned them to a sponsor, is it your assumption that is no longer the care and custody, now the law says once you give it to a sponsor it is the sponsor?

Mr. GREENBERG. That has been HHS' longstanding interpretation of the law, and what I want to make clear is that in the majority of cases, when children are released, they are released to their parents.

Senator LANKFORD. OK. So let me ask you about that. How do you know it is their parents? What verification are you using that this is a parent? And how are you selecting where they go and, when it is a non-relative, where they are placed, who that is? Who chooses?

Mr. GREENBERG. Under the law that governs us, our first preference has to be for their parents——

Senator LANKFORD. Correct, so how do you know it is the parent? That is what I am asking.

Mr. GREENBERG. There is a process for verifying the relationship between parent and child. It will involve the use of birth certificates and other forms of identification.

Senator LANKFORD. OK. So let me back up, because I have done the same thing you have. I have been down to the detention facilities, which, by the way, before I came here to Congress, I was the director of the largest youth camp in the country. We had 51,000 guests a summer. We were a very large operation. So when I went and visited a facility where there were 1,000 teenagers that were there, I am very aware of what it takes to do all the work around that. As I went and visited and talked to the kids and walked to the staff and interacted with the contractors that were there, I had individuals ask me later, "What did you think?" I left and said, "That facility is exactly how I would have run my camp if money was no object." Because there was a tremendous number of staff and buffers and all kinds of things wrapped around those kids. And what is astounding to me is how it runs the first 30 days that they

are in the United States versus every other day after that for these kids. And so many of them never show up at their Notice to Appear (NTA), and we have no idea where they are, how they are being cared for, what has happened, how they have integrated into society, and we are aware that when we are put into a home that is not a near relative often, they never show up for a Notice to Appear, and we are aware they just disappear.

Now, the struggle that I have is if you are aware a high percentage is going to disappear or you are aware that we are putting at people at risk of trafficking, why wouldn't we hold them at their initial facilities where they are being well taken care of until court proceedings and we know they are not going to be at risk in other locations and they can go through their court proceedings? And many of those are returned to their home country. They do not have a relative here, and so they are being returned to their home country. But, instead, they are being released into the United States to people we do not know who they are, we are not checking up on them, there has not been adequate fingerprints, there has not been home visits. There is no acknowledgment that we know where they are months later. But we are not detaining them as the law requires. We are releasing them knowing full well we will probably never see them again and they are illegally into our country. Help me understand that.

Mr. GREENBERG. Senator, I would first say that I agree that the services are very good in the shelters.

Senator LANKFORD. They are. It is very good.

Mr. GREENBERG. we are very proud of them. We would encourage any Members of the Committee, WHO have not visited, to visit the shelters.

We have a legal responsibility to release the children both under the Flores Consent Decree that governs us and under the TVPRA, which says that children need to be in the least restrictive setting in the best interest of the child.

Senator LANKFORD. So take me a year back, go a year ago last January. We have a child that did not come with a letter and a phone number, which many of these children are coming across the border with a picture of someone, with a letter, with a phone number, some sort of identification, and what you did not say before is what I know to be true: You are selecting these sponsors because the child has a piece of paperwork in their hand saying, "This is who I want to stay with when I get to the United States," correct? Most often the child is walking in and saying, "This is the person I want to stay with."

Mr. GREENBERG. That will often be the case.

Senator LANKFORD. OK.

Mr. GREENBERG. Not always, but often.

Senator LANKFORD. But parent/non-parent, then you are trying to guess then is this really the parent, and if it is a non-relative, you are still trying to guess: Is this really a good non-relative? Was this given to them by the coyote, or was this given to them by some parent in the past? They arrive then. They are placed in that. A year ago, did that person that they were being placed with, was there a fingerprint done for that individual that they were being placed with? Go back a year ago. So the sponsor/non-relative, when

they said this is the phone number and the location I am told to go to, was there a fingerprint done for that sponsor? Yes or no.

Mr. GREENBERG. Senator, are you asking about a particular case or about policy?

Senator LANKFORD. Just a yes or no. Do we do fingerprints on the sponsors on a Category 3 non-relative that this child walked in and had a phone number for, not knowing really all the history of that phone number, where that came from and that address, did we do a fingerprint on that person?

Mr. GREENBERG. Yes, there should have been fingerprinting done.

Senator LANKFORD. Did we do a home visit for that person?

Mr. GREENBERG. A year ago, we would have only done a home visit if it fell into one of our categories——

Senator LANKFORD. If they are special needs, if we thought they were——

Mr. GREENBERG [continuing]. Under the law or——

Senator LANKFORD. Correct. So then let me ask a question. Did we verify that person was a legal citizen of the United States?

Mr. GREENBERG. We would not do that.

Senator LANKFORD. Why?

Mr. GREENBERG. Because under the Flores Decree, we have an order of release, first to parents, then to close relatives, then other relatives——

Senator LANKFORD. Even if it is not—because no foster care in the country is going to place a child in a home of someone that is illegally in the United States, that we have not done a full background visit, we have not done the process, because there is this sense that if we are going to have long-term custody or care, if it is a parent, that is a different issue. We are talking about a non-parent in here, to be able to place someone in a non-parent's home that is not a legal citizen of the United States or that there were people in the facility that were not legal.

Mr. GREENBERG. Senator, both you and other Senators have made a number of references to foster care. I want to emphasize the foster care system is different in a lot of ways.

Senator LANKFORD. I understand it is. I was just looking for the question here.

Mr. GREENBERG. If I could just say a word about that. The foster care system does involve licensing and training of foster care parents and facilities. It involves paying foster care maintenance payments to them. It involves a structure of States having caseworkers who are doing monthly visits to the child.

Senator LANKFORD. We all get that. That is not the question.

Mr. GREENBERG. I do want to emphasize that is a different structure than this one. If Congress wants this structure to look more like the foster care system, that is absolutely a choice that Congress can make.

Senator LANKFORD. No, I think it is the decision on placement. I think it is not about long-term care and training and all those things. I get that. It is the decision on placement to say a person's fingerprint, background check, we know this person does not have criminal records, we know that that person does not have a Notice to Appear that they have skipped, and then that is obviously going

to increase the chances that a child is placed in that house that is also going to skip a Notice to Appear, or the most basic thing that Senator McCaskill brought up over and over again is this issue of if a child skips a Notice to Appear, that is clearly negligence. They are not following the law. That is a clear issue that they were negligent in not delivering the child at that appropriate time. That should set off an alarm on this clear statute that says the custody and care of alien children falls on HHS.

So I guess all we are trying to figure out is what are we missing at this point.

Mr. GREENBERG. On the specific question Senator McCaskill raised, we will followup. We will go back to the lawyers and talk about that one.

I want to emphasize for sponsors how different it is than foster care. We are not paying these people anything. The children are typically not eligible for public benefits. This is just determination of who should the child live with while they are awaiting their immigration proceedings. In most cases, that is going to be the child's parent. If it cannot be the parent, we look for a relative, and only if we cannot find an appropriate parent or relative would we ever go to the family friend.

Senator LANKFORD. All right. Thank you.

Senator PORTMAN. Senator McCain.

OPENING STATEMENT OF SENATOR MCCAIN

Senator MCCAIN. Well, I want to thank you, Mr. Chairman, for holding this hearing on this very important issue, and especially the abuses that are inflicted on these young children once they get here.

According to this, we now have in 2016, just in the first quarter, 14,260. Then if this keeps up, this would be a record-breaking year. Is that true?

Mr. GREENBERG. If it does keep up, yes.

Senator MCCAIN. OK. Now, let us talk for a minute about how they get here. They get here, 99 percent of them, in the hands of coyotes, right?

Mr. GREENBERG. I would say often. I cannot say——

Senator MCCAIN. I am asking you straightforward questions. You and I know that the majority of them are in the hands of coyotes, right?

Mr. GREENBERG. I cannot offer a specific percentage. I can say when I talk to kids, I hear a range of stories about how they get here.

Senator MCCAIN. It is a well-known fact, Mr. Greenberg——

Mr. GREENBERG. It is often a coyote.

Senator MCCAIN [continuing]. That the majority of children are—that coyotes are paid thousands of dollars, and they are transported to our border. I mean, Mr. Greenberg, we are talking about facts that are well known.

Mr. GREENBERG. Senator McCain, I absolutely agree that it is a very common thing. I just could not say that it was 99 percent.

Senator MCCAIN. Excuse me. OK. So they are in the hands of coyotes, right? The majority of them, right?

Mr. GREENBERG. Often.

Senator MCCAIN. Mr. Greenberg, you are a very interesting witness. You and I know that the overwhelming majority of coyotes are paid to bring them to the United States. They ride on the top of trains, and they often fall off and are killed. More importantly than that, young women who are brought by coyotes are invariably sexually abused on the way. We know that, right?

Mr. GREENBERG. We know that happens often, Senator. What I am saying to you——

Senator MCCAIN. OK. And we also know that these same coyotes that are bringing the children are also bringing drugs, right? Same cartels. Do you know that? You do not know that?

Mr. GREENBERG. Often.

Senator MCCAIN. It is more than often, Mr. Greenberg. It is invariably the case. And if you do not know that, then you are not doing your job. It is well known that the majority of children who come here are brought by coyotes, and it is well known that the coyotes are part of the drug cartels. Are you denying that? Yes or no.

Mr. GREENBERG. Senator, I am saying that I do not know that.

Senator MCCAIN. You do not know that? You do not know that, Mr. Greenberg, with your experience—I mean, this is crazy. Everybody knows that. Talk to any Border Patrol agent. Come with me down to Nogales, and they will tell you how they got there, and they will tell you who brought them, and they will tell you what happened to the children along the way. And for you to sit there feigning a lack of knowledge of the facts is really insulting.

Mr. GREENBERG. Senator, I have talked to Border Patrol agents and have done so regularly when I am down there. I do not want to speak for them, but what I am told is that often the coyotes are independent of the drug cartels. I do not have personal knowledge on this.

Senator MCCAIN. Why don't you have firsthand knowledge? Every other law enforcement agent does. All the Border Patrol people do. Everybody knows what the facts are. Mr. Greenberg, this is a very frustrating—OK. Well, let me tell you what is going on, Mr. Greenberg. Let me tell you. These are coyotes. They are part of the drug cartels. The overwhelming majority of children, their parents have paid thousands of dollars to have them transported, and many of the young women are sexually abused on the way. Those are well-known facts, Mr. Greenberg, and I do not know where you have been living, but you ought to know that, because those are facts.

So then the question is: If those are facts—and they are—then why don't we do more in the country of origin—Guatemala, El Salvador, Honduras—where we can have these young people come to our consulatesor our embassies and there apply for this asylum so they are not subjected to this terrible experience of being transported by coyotes, and who are drug dealers as well, to our border? And yet the information that I have is that the State Department received 4,000 applications for the program and conducted 90 interviews. What are you doing down there at these embassies and consulates, when young people come to you for shelter from the abuses and threats to their lives that are posed by the chaos within their countries, which are, by the way, mainly bred by drug cartels?

Mr. GREENBERG. Senator, the Administration does believe that having in-country processing is an important thing to do. The specifics of it are under the responsibility of the State Department.

Senator MCCAIN. Despite the fact that of 4,000 applications, 90 interviews were held. They may believe that, but they are not doing it. Has there been any increase in consulate personnel or embassy personnel to handle these cases in these three countries?

Mr. GREENBERG. I am sorry. I cannot speak to that, Senator. It is best directed to the State Department.

Senator MCCAIN. So you would not have any idea, even though your responsibilities are on this issue.

Mr. Chairman, I cannot ask any more questions of this witness. This is the definition of "non-cooperative."

Senator PORTMAN. Thank you, Senator McCain.

We are now into our second round, and I am going to start, and I guess I am going to focus on the issue that I think Senator McCain has just touched on, and Senator Lankford, which is HHS unbelievably taking this position that somehow you are not responsible for these kids once they leave the detention facilities. You release them to a sponsor. Basically you are saying we have no more responsibility.

You have taken that position even though Federal law, as was just quoted, says that responsibility for care and custody of all these unaccompanied minor kids rests with HHS and even though Congress has mandated HHS actually provide post-release monitoring in some cases specifically, and even those there is a judicial decree that governs this program, also known as the "Flores Agreement."

In response to Senator Lankford's questions, Mr. Greenberg and Mr. Carey, your response was, well, the Flores Agreement requires us to get these kids out the door. That is basically what your response was. Let me just make it absolutely clear. The Flores Agreement does not authorize you to cut corners, period. It clearly states that HHS should place children with a family member or a family friend who is "capable and willing to care for the minor's well-being." That is in the Flores Agreement. That is a quote.

It also says, of course, under the Trafficking Victims Protection Act that you are forbidden from releasing any unaccompanied alien child "unless the Secretary of HHS makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being."

So this notion that you are going to hide behind the Flores Agreement or Federal law to me is you shirking your responsibilities. It is clear that HHS is not permitted to skip reasonable precautions that are necessary to make the determination that is provided for under law specifically and under the Flores Agreement.

To me, I guess that is the biggest concern that I have after today's hearing, is that despite our work, the work of others, the AP investigation, the back-and-forth we have had with you for 6 months on this, that you continue to think that somehow your legal responsibilities do not continue after you place a child.

Let me ask you this question: Has HHS ever terminated a sponsorship agreement for failure to properly care for a child and re-

sume custody of that child? Have you ever terminated a sponsorship agreement?

Mr. GREENBERG. Not that I am aware of.

Senator PORTMAN. Mr. Carey.

Mr. CAREY. Not that I am aware of.

Senator PORTMAN. So out of tens of thousands of kids, you have never, including in this case in Marion, Ohio, when those kids were living in that trailer, with a bunch of adults, debt labor, you have never terminated an agreement?

Mr. GREENBERG. Senator Portman, if I can respond more fully, our view that we do not have continuing custody after we release the child is a longstanding HHS view. It was the view before I got there. I am happy to take it back to the lawyers and ask them about it again. Also, if this is an area where Congress wants the law to be different, Congress should change the law.

Senator PORTMAN. The law already says that, and the Flores Agreement already says that. Have you read the Inspector General's report on this? It dates back to 2008. Have you read that report?

Mr. GREENBERG. I would have to go back and check.

Senator PORTMAN. Well, the Inspector General of HHS recommended that if there was any doubt about this, that HHS and the Department of Homeland Security should enter into a Memorandum of Understanding to clarify "which Department is responsible for ensuring the safety of children once they are released to sponsors and which Department is responsible for ensuring sponsors continue compliance with sponsors' agreements." Have you read that? Have you read that report?

Mr. GREENBERG. I do not recall reading that, Senator.

Senator PORTMAN. I would encourage you to read it. HHS has had quite a long time to think about it. It dates back 8 years.

After these 8 years have passed without any final action on your part to clear up this basic question about HHS versus DHS, these kinds of conditions are present. This is the result, never having terminated a sponsorship, despite some of these horrific conditions that we are talking about today.

I will tell you, you have missed opportunities one after another. I talked about that in my opening statement. But this is certainly the biggest one, just not taking the responsibility and not doing any kind of appropriate oversight.

You talked earlier about the fact that you have these home visits. We have looked into this, and we heard that home visits were something that you did. You gave us some numbers on it. We looked at your own numbers, and we found out that it was only 4 percent of the cases. Is that your understanding?

Mr. GREENBERG. That is my understanding, yes.

Senator PORTMAN. Four percent home visits. It is no wonder you have these kinds of problems. Senator McCaskill.

Senator MCCASKILL. What is the most important thing you are going to do after this hearing?

Mr. GREENBERG. After the hearing, I am going to read the Committee's report. I am going to ensure that we share it with staff and all other interested parties in the Department, and that we actively discuss the findings from the report and what the implica-

tions are for our existing policies and what we can do to strengthen our policies.

Senator MCCASKILL. And would you put an asterisk on the to-do list to ask the lawyers to put in writing why they think that you all have no responsibility after you place these children in particularly Category 3 homes?

Mr. GREENBERG. Yes. I have that on my list from our earlier exchange, and we will absolutely followup on that.

Senator MCCASKILL. Yes, because it seems to be the heart of the matter here. Let me just give you this factual recitation.

On July 1, 2015, a Federal grand jury indicted four defendants in Marion. In October 2015, 3 months later, HHS officials met with the Subcommittee staff of this Committee. The staff of this Committee met with HHS. At that meeting, 3 months after an indictment, the HHS officials knew little or nothing about the children involved in the case or with the details of the placements with their sponsors.

I mean, this lack of urgency is cultural, Mr. Greenberg. If I were sitting in your job and I picked up the morning paper and said four people have been indicted for trafficking children that your agency had placed in there are, I mean, red lights would flash, sirens would go off. There would immediately be a team of people to look and see what children were placed there, were there other children placed there, what were we told, did we look at the documents. And none of that had occurred. It was like, "Well, yes."

So when were you first notified that unaccompanied children placed by HHS had been trafficked in the Marion case? When was your first notification?

Mr. GREENBERG. To the best of my recollection, I became aware when the indictment came out and there was press at that time. I can tell you that at that time I did talk with ORR about our existing policies and what else we needed to do to strengthen them. As you can see, and as you saw in my testimony, we broadened the home study requirements in July, to extend to circumstances where a sponsor was trying to sponsor more than one child or had previously sponsored a child. We built in, in September, a requirement for the shelters to look to see if a sponsor has been trying to sponsor more than one child, or if multiple children are going to the same address.

Senator MCCASKILL. Had your documents not been subpoenaed by the Federal authorities at that point, the information about the sponsors? Had they not come to you in the investigation about what information you had about these sponsors?

Mr. GREENBERG. I cannot speak to the specifics of——

Senator MCCASKILL. Mr. Carey, did they come to ORR asking for documents during their investigation?

Mr. CAREY. I was not at ORR at that time.

Senator MCCASKILL. Would somebody find out the answer to that question?

Mr. CAREY. Certainly, we can find out.

Senator MCCASKILL. Because I am just thinking, as law enforcement, if I am the prosecutor that is presenting that case to the grand jury, I am going to want all those documents in hand as I prepare that case. So I would be interested to know if, in fact, they

had asked for the documents, because you all have documents that were signed and executed giving those children sponsors. And some of those sponsors ended up being felons.

Now, my last question, because I am out of time and I know we have to get to the second panel. You have been struggling with trying to come up with a written policy for this program since 2008. There have been drafts of operational manuals, there have been drafts of policies floating around for years under consideration. You had these indictments in the middle of last year. Up until 3 days ago, it was the policy of HHS that it was OK if other adults in the house had been convicted of sex crimes with children.

Now, can you relate to why I have a lack of confidence in your ability to draw up policies and procedures? How did that get missed? How did not looking at criminal backgrounds even of the sponsor who takes over if the original sponsor disappears, how is that something that in all these drafts and policies that are floating and, we have emails, comments on them, this has been around for years, how is that missed that you are going to place a child in a household with convicted felons where children have been the victims?

Mr. GREENBERG. I agree that is a change that needed to be made, and I am glad we made it.

Senator MCCASKILL. That does not give me a lot of confidence.

Mr. CAREY. May I clarify? The policy as it existed did not provide an absolute bar based on a criminal history, but it does not mean that the criminal history was assessed, and if it was seen as a threat to the child, the reunification did not take place. There is now an absolute bar.

Senator MCCASKILL. I understand. It was possible for them to turn them down if they did the check, but they were not doing the checks on the other adults living in the household. And, second, if it came back, it was up to that individual to decide whether or not that particular conviction for child abuse was OK or was not OK. Somebody said in the process of this investigation, "Well, sometimes people get accused of child abuse in a domestic situation," like that was somehow—we are talking about felony convictions for child abuse. Hello.

I understand that they could have disqualified him if they had run the criminal background checks. But they were not being run on many of the people that would have been in these children's lives, and even if they found the conviction, they were not required to bar that person. That is the point I am trying to make, Mr. Carey, and I do not think that there is much excuse for that.

Thank you, Mr. Chairman.

Senator PORTMAN. Thanks, Senator McCaskill. I would add, as you know, that there was no criminal conviction that was too serious.

Senator MCCASKILL. Right.

Senator PORTMAN. Even if they did the background check and found out that someone was a habitual sex offender, HHS policy was there was no——

Senator MCCASKILL. Automatic bar.

Senator PORTMAN [continuing]. Criminal background that was too serious.

Look, I know we need to get on to the next panel. We have some witnesses we really want to hear from. I would just end with two thoughts.

One, this notion that there is not enough resources, just so you know, in 2014 Congress appropriated $912 million at the end of 2014. This is the period of time we are talking about; $200 million were left unobligated, not spent, not committed. That is about 25 percent of the budget was not even spent. In 2015 Congress appropriated $948 million, an increase. How much was not spent? About $278 million. So this notion of inadequate resources, just so you know, is not an excuse.

Then, finally, just to say we have laid out here today five or six specific issues that we would like you to take back, and I appreciate the fact, Mr. Greenberg, that you said you will read the report and that you will work with us to make some of these changes. Some were made this week. For instance, this criminal conviction issue was made on January 25. As I said earlier, that is progress. I am glad we had this opportunity to have the back-and-forth with you over the last 6 months. There is more to do, including clarifying this policy. I encourage you to read the Inspector General's report from 8 years ago. These are, as Senator McCaskill has said, issues that have languished for too long without being addressed. And, unfortunately, we see that during this first quarter we have another surge. And we want to be sure that those kids who were abused, who were in servitude in Marion, Ohio, that their case can be an example not just to talk about at a hearing but to ensure that other kids do not fall into that same trap. And that requires you to do a better job of deciding where these kids ought to go and monitoring their situation. And you have every authority to do that under current law, and we insist that you do it.

So thank you for being here this morning, Mr. Carey and Mr. Greenberg. We appreciate your coming to testify.

We will now call the next panel.

[Pause.]

Thank you all for being here.

We are privileged to have some experts before us to talk about some of the issues that we have just talked to HHS about.

Our first witness is Tiffany Nelms. Tiffany Nelms is the Associate Director of children's services at the U.S. Committee for Refugees and Immigrants (USCRI) where she oversees the organization's national home study and post-release service program for unaccompanied children. She has a background in case management, has worked on behalf of immigrant children and families for 15 years, and she is a licensed social worker.

Jennifer Justice, the middle of the panel, we are pleased to have you. Jennifer Justice is the Deputy Director of the Office of Families and Children in the Ohio Department of Job and Family Services (ODJFS). Among other duties, her office oversees Ohio's child and adult protective services, foster care, adoption, and child abuse prevention programs. Thank you for being here.

Finally, last but not least, we have Kimberly Haynes. Kimberly is the Director of children's services at the Lutheran Immigration and Refugee Service (LIRS), one of the great resettlement groups, which serves unaccompanied children, among others. She has over

20 years of experience in child protection and social work, including a consultant supporting a variety of refugee assistance programs within the Office of Refugee Assistance. We just heard from them. She has a master's degree in social work and management administration and community organization, with a specialty in children and youth. Thank you for being here.

Again, it is the custom of this Subcommittee to swear I our witnesses, so I would ask you please to stand and raise your right hand. Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. NELMS. Yes.

Ms. JUSTICE. Yes.

Ms. HAYNES. Yes.

Senator PORTMAN. Thank you. Let the record reflect that the witnesses answered all in the affirmative.

Your written testimony will be printed in the record in its entirety. We would ask you, if you could, try to limit your oral testimony to 5 minutes, and we will have a chance for a little give-and-take. We may have some votes that come up, and we want to be sure and have the opportunity to have some dialogue with you.

Ms. Nelms, we will hear from you first.

TESTIMONY OF TIFFANY NELMS,[1] ASSOCIATE DIRECTOR, UNACCOMPANIED CHILDREN'S SERVICES, U.S. COMMITTEE FOR REFUGEES AND IMMIGRANTS

Ms. NELMS. Thank you so much. Good morning. Thank you to Chairman Portman, Ranking Member McCaskill, and Members of the Subcommittee, for the opportunity to amplify the voices of the thousands of children seeking safety and protection in the United States and to share their stories.

My name is Tiffany Nelms. I am a social worker and the Associate Director of unaccompanied children's services at the U.S. Committee for Refugees and Immigrants, and for nearly a decade, I have worked with these children, and their perseverance and many successes motivates me to continue this work; but our failures to protect and adequately support them keeps me up at night.

For over 100 years, the U.S. Committee for Refugees and Immigrants has protected the rights and addressed the needs of persons in forced or voluntary migration worldwide and supported their transition to a dignified life. We help the uprooted by facilitating and providing direct professional services and promoting the full participation of migrants in community life. We understand the situation because we work with refugees and immigrants every day.

Let me tell you about a girl who I will call Karen. Her family eked out a meager living by selling bottled water and candy to tourists in a popular beach town in Honduras. After completing only a few years of school, Karen was forced to work and help support her family. For many years, Karen's extended family was targeted by gangs because they refused to pay a "tax" or "rent." This tactic is commonly used by gangs to extort money from regular people. In exchange, those who pay the tax can live in, work in, or

[1] The prepared statement of Ms. Nelms appears in the Appendix on page 78.

transit a community the gang has claimed. When she was 10 years old, Karen's uncle was murdered by the gang, a punishment for his refusal to pay this "tax." The murder served as a warning, and Karen's parents fled, hoping to fall off the gang's radar. Their house was subsequently burned to the ground.

At 14, Karen's parents allowed her to marry a man in another town to protect and provide for her. Karen became pregnant, and after the child was born, the physical, emotional, and sexual abuse started. She did not seek help from the authorities because crimes against women and girls are rarely prosecuted in her country.

Karen eventually left her husband, and she and her child sought safety with her parents who were living with Karen's cousin. However, this cousin was kidnapped, tortured, and murdered by members of the local gang as punishment for resisting their sexual advances and attempts to recruit her. The gang left her body in pieces on her doorstep as another warning of what could happen to Karen and her family. The murders of Karen's uncle and cousin were never investigated. This deepened the family's distrust of the local authorities, and fearing she might be next, Karen fled to the U.S. border seeking protection, where she was detained and transferred to the care of the Office of Refugee Resettlement.

In the past 2 years, we have seen rapid increases in the number of children, most of whom qualify for refugee status, who are seeking basic protection from violence, abuse, and neglect in their communities. These children's needs are not being met in their countries of origin.

Approximately 10 percent of Central American children who are extremely vulnerable qualify for post-release services after reunification with a sponsor. This means they receive three home visits in 6 months. Many of these especially vulnerable children end up on a waitlist, and some must wait up to 6 months after release before a provider is available to serve them due to capacity restrictions.

There is no other system that places children, some that have no prior relationship or recollection of their sponsor, and provides no followup or monitoring of the child's well-being after the placement.

Children who speak some English and at least have access to informal "helpers" such as teachers, pediatricians, and police officers—connections within their communities who are trustworthy and will notice any irregularities or, at worst, abuse or neglect. These are connections that are not guaranteed for unaccompanied children with limited English proficiency often with no connections to their communities beyond their sponsors. These children are especially vulnerable to being abused, neglected, exploited, or trafficked by their sponsors.

Post-release services are critical. They connect unaccompanied children to medical and mental health care, ensure that children are enrolled in school in compliance with compulsory school attendance laws, and provide children with access to legal representation, something that is not guaranteed for unaccompanied children and which significantly increases their likelihood of attending their immigration hearings. In addition to ensuring access to resources, post-release service providers monitor the children's well-being and integration to their new homes and communities. These social

workers detect situations in which children are abused, neglected, exploited, or trafficked.

For example, our staff has identified victims of labor and sex trafficking among this vulnerable 10 percent of the children that qualify for post-release services. Presently, post-release services are stretched thin, and the quality of these services is in jeopardy as we are asked to do more with less, increased caseloads and not enough time to meet the needs of the children in our care.

Here are some recommendations about how to remedy this. We suggest that post-release services become available to every unaccompanied child. Post-release services work. The children served through USCRI's program have a 95-percent attendance rate at their immigration hearings and similar outcomes for school attendance.

We recommend that ORR expands capacity within the national post-release services networks so children are served in a more efficient and expeditious manner, reunited with family in a timely and safe way, and able to access the education and medical and mental health care that they deserve.

And we recommend that they streamline reunification processes in consultation with national post-release service providers.

You may be wondering what happened to Karen, the girl I described in the beginning. Delays and lack of adequate representation resulted in Karen being deported just after her 18th birthday. Despite our best efforts, we are currently unable to locate her in-country to confirm her safety. We do not know her whereabouts.

We recognize that these children have fled to the United States seeking protection, and we take seriously our role as guardians while their immigration claims are reviewed and evaluated. When a child receives due process resulting in a deportation order, he or she must return to his or her country of origin. However, while these children are in our care, we can do more to welcome and protect the most vulnerable among us.

Thank you.

Senator PORTMAN. Thank you, Ms. Nelms. Ms. Justice.

TESTIMONY OF JENNIFER JUSTICE,[1] DEPUTY DIRECTOR, OFFICE OF FAMILIES AND CHILDREN, OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

Ms. JUSTICE. Thank you, Chairman Portman, Ranking Member McCaskill, and Members of the Subcommittee. Thank you for the opportunity to provide testimony to explain the foster care licensing process in the State of Ohio. I oversee Ohio's child welfare system at the Ohio Department of Job and Family Services and have held the position since 2011. I have worked in the child protection system for over 19 years, and in my current position, I am in charge of supervising Ohio's child protection programs, including protective services, foster care, kinship, adoption, the Interstate Compact for the Placement of Children (ICPC), and independent living services. Today I want to highlight some of the important licensing requirements for prospective foster applicants.

[1] The prepared statement of Ms. Justice appears in the Appendix on page 83.

Ohio's foster parent applicants must be at least 21 years of age and must have enough income to meet the basic needs of the household. They must be free of any physical, emotional, or mental condition that could endanger a child or impair their ability to care for a child.

Everyone over the age of 18 living in the house must submit to State and Federal criminal background checks as well as an Ohio alleged perpetrator search through the Statewide Automated Child Welfare Information System (SACWIS). A SACWIS search is done to see if the applicant has a substantiated or indicated report of child abuse or neglect.

A foster parent applicant must disclose if a person between the ages of 12 and 18 years of age residing in the household has been convicted or pled guilty to certain offenses or adjudicated delinquent.

A fire inspection must be completed and training must be completed.

The required background screens must be completed no less than every 4 years if foster parents are to continue to be licensed. Criminal background checks are required to be conducted by all Title IV–E agencies per the Code of Federal Regulations (CFR).

If an applicant fails to provide the information necessary to complete a background check, the person will be denied certification as a foster caregiver.

If an applicant has a felony conviction for spousal abuse, rape, homicide, or sexual assault, he or she would be prohibited from becoming a licensed foster parent. This also applies to all adult household members.

Ohio has a comprehensive list of misdemeanors and felonies that prohibit applicants from becoming licensed unless certain rehabilitation standards are evident.

When we look at financial stability, we look to see that applicants have enough income to meet the basic needs of every child. A foster applicant must provide proof of income for the household for the most recent tax year period and proof of income for the most recent 2 months, as well as their utility bills.

Along with these requirements, a foster care home study must be completed. This evaluation of the residence is completed by a licensed agency's assessor and takes place physically inside the residence with the foster parent applicant present.

Not all foster applicants end up being licensed. Some voluntarily withdraw, and some are denied a license. Applicants may be disqualified for offenses in their background check, or their living conditions may be unsafe.

Although foster care placements are often necessary, Ohio works hard to identify relatives and non-relatives who are familiar to the family as placement options to reduce the trauma that comes with removing children from their parents. Relatives and non-relatives over 18 years of age living in the home must undergo all the same criminal background checks as foster parent applicants. Their homes are also evaluated, and an assessment is conducted of their ability to provide a safe placement.

Once children are placed with licensed foster families or approved relatives and non-relatives, monthly home visits occur until

the child is reunified or another permanent placement is found. Monthly home visits are conducted by a caseworker employed by the agency that holds custody of that child. State policy reinforces this Federal requirement to provide for the well-being of all children that have open child welfare cases. Visitation data is required to be reported to the Federal Government, and all States are required to meet or exceed 95 percent of all required visits.

The approval process for children who are placed across State lines is defined in the Interstate Compact for the Placement of Children (ICPC). This is a statutory law in all 50 States and is designed to protect children placed across State lines so that they will be placed in a safe, suitable environment. In accordance with Ohio laws and policies, all home study and criminal background check requirements that I described a minute ago apply to these placements as well.

Ohio appreciates the ongoing technical assistance provided by the Administration of Children and Families' regional office, and I appreciate this opportunity to provide testimony here today, and I am happy to answer any questions the Subcommittee may have.

Senator PORTMAN. Thank you, Ms. Justice.

We will now go to Ms. Haynes, and I will say before you start your testimony, Ms. Haynes, a vote has been called—in fact, two votes, and Senator McCaskill and I have decided to stay through your testimony. Then we are going to ask you if you would please be patient while we run over and vote at the end of the first one and beginning of the next one, and we will adjourn the hearing during that period, then come back to reconvene.

So, with that, do not be offended if we run out after your testimony, literally run out. Ms. Haynes.

TESTIMONY OF KIMBERLY HAYNES,[1] DIRECTOR FOR CHILDREN'S SERVICES, LUTHERAN IMMIGRATION AND REFUGEE SERVICE

Ms. HAYNES. Chairman Portman, Ranking Member McCaskill, and Members of the Subcommittee, thank you for this opportunity to provide the testimony about the efforts to protect children from trafficking.

My name is Kimberly Haynes. I am a Social Worker. For the last 5 years, I have been the Director of children's services at Lutheran Immigration and Refugee Service, where I oversee our ORR programs for unaccompanied migrant children, which include Federal foster care, safe release support sites, home studies, and post-release service case management services. I have worked with unaccompanied refugee and migrant children both here and the United States and in an international context for over a decade.

LIRS is a faith-based organization which has been serving refugees and migrants for over 75 years, unaccompanied children from all over the world for over 40 years. LIRS believes all children have the right to protection and family unity.

As the only service provider that serves unaccompanied children throughout all stages of care, LIRS is uniquely situated to identify the gaps in protection, make recommendations to improve the sys-

[1] The prepared statement of Ms. Haynes appears in the Appendix on page 87.

tem and U.S. policies and practices, ensuring the safety and well-being of these children. While I submit a more detailed written testimonial, I wish to express that the United States has a strong domestic child welfare system which contains many best practices that we can use to enhance and strengthen the current system used for unaccompanied children.

I will focus my remarks in two areas: first, on protection gaps in the current system; and, second, provide recommendations to improve the family reunification practices so that incidences of trafficking or harm may be more readily identified, prevented, and mitigated.

It is LIRS' position that ORR is in the best position to provide the care and protection for unaccompanied migrant children. However, it is imperative that adequate protection practices are in place to ensure the child's safety and well-being during and after release from ORR custody to sufficiently support the child and family's ability to protect, care from, and integrate into communities.

Over the years, ORR has continuously revised and expanded its depth of knowledge and practice in serving this unique population. As I detailed in my written testimony, one excellent practice is the provision of post-release services for certain vulnerable children. In recent years, however, with a higher number of unaccompanied children arrivals, ORR has revised certain policies in order to expedite family reunification and limit the amount of time a child would remain in ORR custody. ORR's budgetary limitations meant that its capacity to provide its full range of services was limited, and children were spending weeks in overcrowded, unsafe Customs and Border Patrol (CBP) cells before being transferred to ORR. This situation was detrimental to their health and well-being. LIRS does not wish to see this happen again.

LIRS has been serving unaccompanied children and their families for over three decades. We believe that our country can do better than releasing children to unsafe conditions due to the lack of resources. We need to treat these children as children first and foremost and provide the protection we afford all children while safeguarding their rights to family unity.

LIRS makes the following recommendations:

First, ORR should prioritize child protection and safety in reunification decisions over reunification timelines and fiscal concerns. We need to see these as children who are needing our safety and our protection and deserving family unit.

Second, ORR should ensure that all children have access to some post-release services, at least, a minimum, one home visit after family reunification. These services should be trauma-informed, individualized, community-based, and case management services. Congress should also appropriate the necessary funds so that ORR can provide these services.

Third, ORR should revise the sponsor assessment tool and sponsor reunification packet to ensure gathering of relevant information. This should be an in-person risk assessment of the sponsor, a sponsor needs assessment, and a sponsor orientation that promotes the child's safety, stability, and well-being.

Fourth, ORR should monitor the impact of changes to fingerprint background check requirements and revise policy accordingly. The

safety of children and screening of sponsors, including parents, must be more consistent and appropriately balanced.

Fifth, ORR enhance their engagement with NGO's and stakeholders in order to help improve their policies, or our partners such as LIRS will continue to work with ORR on improving policies that utilize best practices in child welfare services. However, if ORR is to fully implement these best practices, they need the resources to do so.

Sixth, Congress and HHS should provide resources for a nationalized child abuse and neglect database system for child abuse and neglect checks so long that waitlists for multiple checks mean that children are waiting for reunification an extended period of time in facilities.

Finally, Congress should provide ORR with contingency funds so that in times of higher arrivals of unaccompanied children or refugees, ORR can adequately provide the services required.

Thank you for the opportunity to share reunification recommendations and best interests for unaccompanied children.

Senator PORTMAN. Thank you, Ms. Haynes. And we appreciate the three of you, if you can, showing the patience to stay around while we recess subject to the call of the Chair. We look forward to talking about those budgetary shortfalls since they are not spending 20 to 25 percent of the money they are being appropriated. I do not know what they are telling you as a service provider, but I do not think that can be the reason. But we will talk more about that.

Senator McCaskill and I will return, and we are now recessed subject to the call of the Chair.

[Recess.]

Thank you all for coming back. We will now reconvene this hearing. Senator McCaskill is on her way, and I am going to start asking a few questions, and then she will be here shortly.

First of all, thank you for your testimony and your willingness to spend time and help us with our report, help us with some of the ways in which we can help address the problems that we have identified today. Each of you has a strong history in this area. You bring different perspectives a little bit, Ms. Justice more from the Ohio perspective and foster care perspective, and, Ms. Haynes, you had some very specific thoughts that you thought would be helpful. And, Ms. Nelms, we appreciate your testimony as well, particularly on the issues of home studies.

My first question is about what we call "home studies." I think they are incredibly important because it is the only opportunity to have a face-to-face meeting, and HHS, of course, does not perform many. For 90 percent of the cases, I think they have no idea if the sponsor is actually who he or she says he or she is. In other words, what they are alleging in their application may not be true.

Over the past 3 years, HHS has performed home studies in about 4 percent of placements based on the analysis of our staff. Can you tell us a little more, Ms. Nelms, about what you think about home studies? In other words, for those who are not following this closely, it is an opportunity to go and actually see something like that trailer or to see where these addresses are, to talk to the people face to face. Could you give us a sense of whether you think that

is something that as a care provider you would think is important? And if you did a home study, what would you be looking for?

Ms. NELMS. Thank you for that question. The home study process has been changing over the years. When I started in this field 10 years ago as a social worker, we had 90 days to conduct a thorough assessment, interview the child, interview the family in home country, interview the potential sponsor and any household members, and visit the home, and really do our homework. And this process has evolved over the last 10 years, and I think in response to the increase in the number of children, and also we all want children to be reunified as quickly as possible when it is a safe and appropriate placement and reduce their length of stay in detention.

However, it should not be by compromising the safety of the child, and some of the changes that have happened, we saw home studies reduced from 90 to 60 to 30, and last month, the home study timeframe we have been given is 10 days to conduct a home study. And that is now part of a bigger assessment, so we are one piece, and the only thing at this point that is required is an interview with the child and the sponsor and a visit to the home.

As a social worker, to maintain the integrity of that home study process, you really need one person looking at all the facts, corroborating the stories, confirming that there is a proof of relationship to avoid situations like what happened in Marion where the person presents as a family friend. And a social worker would quickly identify that in conducting a family tree, for example, with the child and the potential sponsor and somebody in home country that they are not able to match those names on that family tree. That is a very easy way to prevent something like this from happening, and this, unfortunately, is not something that we are able to do at this point with the recent policy changes.

Senator PORTMAN. That is very disturbing, and in our report we talk some about this issue, the fact that, as you say, 10 years ago there was a very different policy in place, and it has gotten more and more strict over time to the point that you have very little time and that there is only, again, 4 percent of the cases now is there any home study at all. And you are right. I mean, some of the followup questions are pretty obvious. The family tree is one. Maybe it is like, if you were a friend of the family, where does the family live? What color is their house? Who is their neighbor? What is the mother's maiden name? Just anything. They are not asking for any of that, as I understand it.

And I would think, Ms. Justice, in your work, you ask those questions in a much deeper way and, you do not place any kid without going through an extremely lengthy process. But at least to know, Ms. Nelms, that this is the person who they say it is.

One of the cases, as you know, was this young man who was given the plane ticket by HHS with the sponsor to go to a particular place where the sponsor was supposedly living, gets off the plane, and this unaccompanied minor or unaccompanied child has testified that the sponsor took off and literally, the traffickers were there waiting for the kid. And the sponsor had been sponsored by the traffickers. It was one of these just obvious situations that with just a little bit of testing—and then in terms of the home studies, you can find out information about potential abuse that Senator

McCaskill and others talked about earlier with some pretty simple questions and with some experience, as you all have, to be able to know what you are looking for.

Ms. Justice, would you tell us just briefly, when you are required to conduct a home study, I assume that happens when you are going to place a child with a foster parent or probably any non-relative. What does that entail?

Ms. JUSTICE. Sure.

Senator PORTMAN. What do you do?

Ms. JUSTICE. Yes, so our foster home study process in Ohio is very detailed and thorough. We study homes, whether it be with relatives, non-relatives, or a licensed foster caregiver. Certainly having a license as a foster caregiver is much more comprehensive in nature, and there is training required. But in all cases, we are going to visit the residence. We are going to walk through the home. We are going to ensure that there is proper ventilation, heat or cool, depending on, where you live. We are going to look at where the child would sleep. We are going to look at is there proper food in the house. We are going to engage the family and ask them very specifically how they intend to care for the child, what are their discipline policies, things like that.

We are going to talk to the child as well and ensure that they feel safe. There is a multitude of things. We are going to look to see if that family has weapons in the home. Are they properly stored to ensure the safety of the child?

It is a very well thought out process. We use checklists to make sure we do not miss anything, because we want to ensure the safety of all children that are in our custody, that cannot stay home because they are unsafe there, and so when they are in our custody, we need to make sure that they are as safe as they can be.

Senator PORTMAN. So let me ask you this question. You are from Ohio, and you obviously picked up your paper 7 months ago, and you saw this incredible story that was happening in Marion, Ohio, just 50 miles from where you live, probably. I assume you live in Columbus.

Ms. JUSTICE. Yes.

Senator PORTMAN. What did you think? I mean, did this seem just unbelievable to you given your background? Or did you know the Office of Refugee Resettlement does not perform any of these sorts of checks?

Ms. JUSTICE. Actually, I am unaware of ORR's policies and procedures. Certainly, as a child welfare professional for my entire career, anytime I see a child that has been abused or neglected, it saddens me. It is troublesome. It is the worst thing that a person in my position can hear about. We are always striving to make sure that that does not happen, but there are bad people in this world and it does happen. But, no—and so, yes, certainly it is very disheartening, and I hope those children are better off now than they were.

Senator PORTMAN. Yes, and we hope that other kids are, too. One thing we have found in our study is the investigation revealed that HHS does not know. We do not know how many kids are in situations like this.

And, Ms. Haynes, you talked a little about the national database and criminal checks. One question we have asked them at HHS, as you know perhaps, is how many kids have gone to live with a convicted felon. And guess what their answer is? "We have no idea. We do not keep track of that."

So even if they are doing fingerprinting on some of these sponsors and asking about criminal records, which, as you know, until this week you could be a child molester, a rapist, you could be a murderer, and there was no automatic ban to placing the child. But even when they did know what the record was, they do not keep any database of it. So there is no way to know.

So tell us, I mean, I am not sure if that is what you are getting at when you talk about national database in your testimony, but what do you think ought to be done there in terms of at least understanding what the problem is?

Ms. HAYNES. As you mentioned, I think there are a couple of layers of protection that need to be put in place, and that is a practical balance of CA/N checks across the board, no matter who is sponsoring the child. I think the reality is also that checks are having to be done in multiple States. We know the population. We know that they are highly mobile. We know that people move. And having multiple States have to run this take a lot of time. Therefore, that also keeps kids lingering in shelter situations rather than moving forward through reunification.

I agree with you that it sounds like that there needs to be stronger policies and practices in place that sort of outline what kinds of convictions or what kinds of outcomes the CA/N checks have that would limit the reunification of children to potential sponsors. That is a concern, and, again, without a home study or other post-release, that is one potential opportunity to identify potential concerns.

Senator PORTMAN. Thank you. And if you do not mind, if you could flesh our your national data base idea very quickly, and then I am going to turn to Senator McCaskill.

Ms. HAYNES. Currently, CA/N checks are done by each State and individually by each State within that State. That does not circle or does not come and connect all 50 States into one massive database, so there is no way to run one name in a national data base that would allow us to look at any State that they may have had a conviction of any kind.

Senator PORTMAN. All right. Thank you very much. Senator McCaskill.

Senator MCCASKILL. We did not even get a chance this morning to get to all the problems we have with the portal at HHS as it relates to trying to determine somebody who has requested multiple sponsorships, somebody using the same address for multiple cases in terms of getting sponsorships.

Let me ask all three of you, first, do you think there should be a continued role of the Federal Government once these children have been placed? And if you believe they should have a continuing role, who do you believe in the Federal Government from where you sit is the best equipped to take the responsibility of trying to monitor these children's environment after they have left to reside

with a sponsor or family member? We will start with Ms. Nelms, and then go to Ms. Justice and then to Ms. Haynes.

Ms. NELMS. Thank you, Senator McCaskill, for that question. I do believe that it would be helpful if ORR did extend their responsibility for the kids after reunification and currently, as they mentioned, the post-release services are voluntary. We share the concerns regarding that arrangement, and there are many situations where, by the time we receive a referral or there is capacity within the network to serve a particular child, they have disappeared and we are not able to locate them.

And in some circumstances, we can make a report to Child Protective Services about that child or to law enforcement, but most of the time, those reports will not be accepted because people are free to come and go, and there is really no one with the authority to try to figure out where that child is.

Senator MCCASKILL. So a 15-year-old child disappears, are not where they are supposed to be. Are you saying that if the child is not where it is supposed to be, then law enforcement—or a 16-year-old child, law enforcement and Child Protective Services in some States will say, "They can go where they want?"

Ms. NELMS. In many cases, that is the response we get, and USCRI serves children—right now, I think we are serving children in 40-something States. So we have experience in many cities across the country, and that is the response that we get quite often, unless we have had situations where if there was a trafficking concern, that they did a little more research into that case. But as Ms. Haynes mentioned, this population is highly mobile, and they move, and they can be hard to locate. And that is concerning. With the restrictions we have right now on post-release services, we do not have enough funding to serve the children that could benefit from post-release services. So they end up on a waitlist, and they could be released for 6 months or more.

Senator MCCASKILL. This is a question I did not ask the first panel, but are the sponsors required to notify anyone if they change address?

Ms. NELMS. They technically are supposed to, but there is really——

Senator MCCASKILL. Do they notify ORR?

Ms. NELMS. I would say in most cases——

Senator MCCASKILL. Are they supposed to be notifying HHS?

Ms. NELMS. They are supposed to notify the court of any changes of placement.

Senator MCCASKILL. Immigration court.

Ms. NELMS. Immigration court, correct. But on our end as post-release service workers, we do our best to locate children through a number of ways. We try to establish contact with family in home country to see where the child is. But if 4 or 5 months have passed since they have been released from ORR care, it is quite difficult.

Senator MCCASKILL. And, Ms. Justice, do you believe the Federal Government should continue to have a role after these children are placed?

Ms. JUSTICE. Right, so as I stated earlier, I am somewhat unfamiliar with ORR's current policies and procedures. But what my experience tells me is that when we in Ohio place children with rel-

atives, non-relatives, or licensed foster parents, we need to continue to see these children to ensure their safety and stability.

Senator MCCASKILL. Right. And, Ms. Haynes?

Ms. HAYNES. I do believe ORR is in the best position to provide the care and custody and ongoing supervision and support for these children after release to sponsors?

Senator MCCASKILL. OK. By the way, is there anybody left in the room from HHS?

[No response.]

No one? Not even somebody's assistant to the assistant to the assistant? No one here works for HHS?

[No response.]

Well, that is really telling.

OK. In your opinion, why have they changed the policy on home study to make it more and more circumspect in terms of how much time you have and how often they are done? What do you think is behind that, Ms. Nelms?

Ms. NELMS. I think there is a number of factors. We saw the influx in 2014, and ORR I think is working very hard to expand their resources, and a lot of those resources have been directed to the residential facilities. And the expansion of these post-placement services, home study services, has not kept up with the growth in the population, and so I think there are ways the reunification process can be streamlined, and some children are going to good sponsors, and they do not remain in care for months on end.

So there are situations where there are benefits to that, but I think that the largest part of this recent policy change is that there is a tremendous waitlist right now for children waiting for home study and post-release services, and the waitlist fluctuates between 1,400 and 2,000 kids at any given time waiting for a service that one of our organizations provides because capacity has not been expanded. And so I think in looking to address that, children are released more quickly if home studies take 10 days versus 30 days.

Senator MCCASKILL. So resources are not helping in that they are not able to utilize those resources quickly enough to deal with being overwhelmed by the great increase in numbers of children? Is that essentially what you are saying? Because, they have money. I mean, the Chairman said they have money. We have looked; they have money. And I know they have hired contractors to help with some of this. Always there is a contractor. So I am curious if from your perspective is it just they have not got the infrastructure in place and so, for example, changing the home study period of time from 30 days to 10 days? I mean, obviously, that is really problematic. Is that just a matter of them not having the capacity to handle these kids?

Ms. NELMS. USCRI serves 2,500 kids a year through our home study and post-release service program. We are one of 11 providers that works with these children, and in conversation with many of the other programs, we are ready and willing and able to add additional capacity to serve these children so they are not waiting months at a time for our social workers to get to them. So I am not sure exactly where the disconnect——

Senator MCCASKILL. Well, I would like to have staff followup, if the Chairman would agree, with the 11 different providers that you

just referenced and talk about the capacity you have and figure out where the disconnect is between the capacity that is out there and the fact that we are not, in fact, utilizing, that we are going to this third category of people that, if you cannot prove you are really related to the child, you get the child anyway. I would like to kind of drill down. Do you feel like there has been enough conversation between these groups and ORR as to the problems that are clearly present in the system as it is now operating?

Ms. NELMS. You are speaking to one of the recommendations that we made. I think we could do a better job at collaborating, and many of us have served these kids for many years, and we know the challenges and the situations that they find themselves in that are very troubling. And it would be good if we could increase that communication to talk through potential policy changes before they occur——

Senator MCCASKILL. Right.

Ms. NELMS [continuing]. And have these negative effects on——

Senator MCCASKILL. Yes, you all should be heard from before they do—I mean, they have been working on policy and programs now for, it will be close to a decade, and we still do not have anything. So it seems like—it is not like they are rushing them to print. So it seems like to me there is time to talk to the people who are on the ground dealing with these children day to day.

Let me close. I know I am over time, and I appreciate the Chairman's indulgence. But let me just close speaking to the three of you. I am sure that all three of you are college-educated, correct?

[Witnesses nod heads in agreement.]

And all three of you had choices about your careers, and all of you decided that you were going to go into a line of work that is full of heartbreak and sadness.

[Witnesses nod heads in agreement.]

And I just want to thank you.

Ms. NELMS. Thank you.

Senator PORTMAN. Thank you, Senator McCaskill.

Thank you for what you do every day for the kids who we both represent, but also thank you for being willing to help us to improve conditions for kids going forward. I mean, this is, I think, an extraordinary failure. We just talked a little about the importance of home studies and post-release services. Again, look at this email that, without this investigation, we never would have known about. This is an email written by the gentleman who was here earlier, Mr. Greenberg: "I assume the reason for under 13 is that it is a smaller number for a pilot and that we'll have the greatest concern about young children less able to communicate about their need for help. Right? But this is probably less likely to pick up the debt labor group." Which is what this was. These were young kids. They were minors.

"Do you think it would go too far to extend to all children going to non-relatives?" They did not do it. I mean, after that question, what would the answer be? The answer is, "Of course we would want to cover these kids who are more likely to be subject to the kind of trafficking that we see of kids having to work off the debt. Their paychecks were withheld. I mean, these kids were working

12 hours a day, 6, 7 days a week, no pay, because their paychecks were taken to pay their debt.

Finally, just to make this clear, on post-release services, which is what this is about in addition to home visits, the sponsor can just say no. Under current HHS policy, current policy, the sponsor can say to you, Ms. Haynes, as you go to knock on the door to say, "Just checking to see how this young man or young woman is doing, to see whether what is on this application is still valid," they can say, "Take a hike." And your job is then to report back to HHS, "Case closed." That is what they ask you to do.

So, yes, there has been some progress made, as I said—we appreciate that—including this pilot program, but it is not a matter of resources. We have been able to go through the appropriations process and look, and it is not just recent. During the time period we are talking about, 2014, they did not spend 20, 25 percent of their budget. It is a matter of commitment, and it is a matter of organizing that Department in a way to handle this big influx. I mean, it is not a mystery that this is going to continue to be an issue.

So Senator McCaskill and I want your continued input because we want to be sure that one of two things happen: Either HHS makes further progress, gets its act together, follows, again, recommendations that Senator McCaskill says have been out there for almost a decade, puts together a plan, working with DHS and others to ensure we know who is responsible for these kids. This Flores Agreement that they talked about as a way to get out from their responsibility, it does not limit their ability to take care of these kids. In fact, it insists that these kids are taken care of. It says to a family member or a family friend "who is capable and willing to care for the minor's well-being." That is in it. The legislation Senator McCaskill talked about earlier, it specifically says "capable of providing for the children's physical and mental well-being."

So we think that they have the authority to do it, but if they are not going to take care of these kids, protect them as the law provides, then we are going to look at additional legislation that makes it absolutely clear, or other ways, perhaps through the appropriations process, to deal with this. So we want your continued input. We know this is a tough issue. We know this is not going to be easy to address. We know from the first quarter results that this is an issue that is likely to increase pressure on ORR. But, boy, we have revealed so many failures here, including lack of consequences. You talk about the fact that they are supposed to tell HHS that they changed addresses. I would ask you, Ms. Haynes and Ms. Nelms, do you think there is any enforcement of that, any consequences? Not based on our study. Zero. No accountability.

So we have an opportunity here to make a difference in the lives of many of these children going forward, and we will look forward to working with you to do that.

I want to thank Senator McCaskill for being a great partner on this. It has been heartbreaking. As she says, it is a tough issue. But it also an interesting challenge for all of us to say, regardless of how we feel about the immigration policy, and there are big differences of opinion on that—I expressed earlier some of my con-

cerns about that Executive Order (EO). But when these kids are here, when they are in the custody of the U.S. Government, they cannot end up in that trailer, working 12 hours a day as minors, 6, 7 days a week, with no pay. It cannot happen, not in this country.

So thank you, Senator McCaskill, thanks to your staff. The staff have worked really hard on this, and I want to particularly single out Rachael Tucker of my staff for her remarkable work on this. And I want to thank you all for being here today to share your testimony and your commitment to continue to work with us on this issue.

The hearing record will remain open for 15 days for any additional comments or questions by any of the Subcommittee members. And with that, this hearing is adjourned.

[Whereupon, at 1:06 p.m., the Subcommittee was adjourned.]

APPENDIX

STATEMENT OF CHAIRMAN ROB PORTMAN
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING: "ADEQUACY OF HHS'S EFFORTS TO PROTECT UNACCOMPANIED ALIEN CHILDREN FROM HUMAN TRAFFICKING"
JANUARY 28, 2016

This hearing will come to order.

Six months ago, many of my constituents opened their morning papers to read the shocking news that law enforcement had discovered a human trafficking ring operating in Marion, Ohio — about 50 miles north of Columbus.

Six defendants were charged with enslaving multiple victims, including at least six migrant children from Guatemala, on egg farms in Marion County. The details of the crime were chilling. Traffickers lured the child victims to the United States with the promise of schooling and a better life. The parents of some of the victims even signed over the deeds to their property back home as collateral for debt incurred to pay for the journey. But not long after their arrival, these children—some as young as 14—were forced to work 12 hours a day, six to seven days a week. The work was grueling. And the living conditions were squalid, with children packed into a crowded, dilapidated trailer—some reportedly sleeping on mattresses in a crawl space beneath the trailer.

To compel them to work, the traffickers withheld their paychecks and threatened their families. As the indictment lays out, the defendants "used a combination of threats, humiliation, deprivation, financial coercion, and debt manipulation" to create "a climate of fear and helplessness." Five of the six defendants have now pleaded guilty.

It is intolerable that human trafficking — modern-day slavery — could occur in our own backyard. But what makes the Marion cases even more alarming is that a U.S. government agency was responsible for delivering some of the victims into the hands of their abusers.

In 2014, at least six of the children found on the Marion egg farms traveled, without their parents, across Central America to our southern border. When they arrived here, they were entrusted to the U.S. Department of Health & Human Services, like thousands of other unaccompanied children (or "UACs") detained at the border. Under federal law, it was HHS's job to find and vet a relative or trusted family friend to care for the child until their immigration court date, or else house them in safe shelters. Instead, HHS delivered the Marion children into the hands of a human trafficking ring that forced them into slave labor conditions.

How could this have happened in America?

After the release of the indictment last summer, Senator McCaskill and I launched an investigation to find out. How did HHS hand over a group of children to human traffickers? Was it a tragic failure to follow agency procedure in these cases? Or was the problem that the agency's procedures don't work and need reform? These were very important questions not only because of the Marion cases, but because of the number of *additional* children who are at risk.

Over the past two years, HHS has placed about 90,000 migrant children —the vast majority from Central America—with adult sponsors in the United States. That surge of migrant children coming to the U.S. illegally is a topic of some debate. There is certainly evidence that this Administration's executive actions on immigration encouraged the surge. But whatever your views on immigration policy, everyone can agree that the Administration has a responsibility to ensure the safety of the migrant kids that have entered government custody until their immigration court date.

Unaccompanied children are uniquely vulnerable to human trafficking because many are in debt to the smugglers who arrange for their passage. The risk is that the smugglers may then force them to work off that debt once they arrive. That's why federal law specifically

requires HHS to protect those kids from traffickers and others who seek to victimize them.

We investigated those protections as part of a thorough, six-month, bipartisan inquiry. The Subcommittee requested and reviewed thousands of pages of child placement case files, internal emails, and other documents from HHS; interviewed several senior ORR officials and personnel; and consulted with experts in child welfare and trafficking protections. The bipartisan staff report issued today details the troubling findings from that inquiry.

Our conclusion is that the Department of Health & Human Services' process for placing unaccompanied children suffers from serious, systemic defects. The horrible trafficking crime that occurred in Marion, Ohio could likely have been prevented if HHS had adopted commonsense measures for screening sponsors and checking in on the well-being of at-risk children — protections that are *standard* in foster-care systems run by the States, including Ohio.

And unfortunately, the systemic defects that contributed to the Marion cases appear to have exposed unaccompanied minors to abuse in other cases reviewed by the Subcommittee.

First, the victims of the Marion traffickers were placed with alleged family friends or distant relatives — which are known as "Category 3" sponsors. As it turned out, the sponsors weren't really family friends at all. Two of them were basically sponsors-for-hire — strangers hired by human smugglers to just get the child out of HHS custody, and then immediately pass them off to the traffickers. HHS did not know that, though, because it does not insist on any real verification of the supposed relationship between the sponsor and the child, apart from the say-so of a relative. One Marion case file actually contains no explanation at all of the child's relationship with the sponsor or his family. We learned that this kind of lax relationship verification is

standard practice in Category 3 placements. A lost opportunity to protect these and other kids.

Second, HHS missed obvious indications that the sponsors in the Marion cases were accumulating multiple unrelated children—a sign that should have triggered greater scrutiny for risk of trafficking. Our review of the Marion case files reveals an interconnected web of sponsors of multiple children sharing the same addresses. HHS failed to connect any of the dots.

Third, remarkably, HHS didn't visit a single sponsor's home to interview the sponsors and assess the proposed living conditions before placing them. We have learned that home studies are universally conducted in foster-care placements—a close analogy to this situation—but HHS has done them in only about 4% of UAC placements over the past 3 years. This policy places thousands of children at risk every day.

Fourth, HHS's procedures for what to do *after* a child is placed with a sponsor *also* failed. Only *one* victim of the Marion human trafficking ring was the subject of a post-release home visit to check in on the child's well-being. But shockingly, the adult sponsor was allowed to *block* the child-welfare worker from visiting that child, even after the case worker discovered the child was not living at the home on file with HHS. As a result, the government missed another opportunity to uncover the crime being perpetrated. Incredibly, this was not a mishap — it is official HHS policy. HHS allows sponsors to *refuse* post-release services offered to a migrant child—and even to bar contact between the child and an ORR care provider attempting to provide those services. When a sponsor says no, the case worker is instructed simply to write: case closed.

Finally, and this is hard to believe: At the time of these cases, if a potential sponsor said on his application that he lived with three other adults, and that if anything happened to him, so-and-so could care for the child, HHS policy was not to conduct background checks of any kind

on *any* of the sponsor's roommates or the backup caregiver. Background checks were run only on the sponsor himself. And if that check turned up a criminal history, HHS policy was that *no* criminal conviction automatically disqualified a sponsor, no matter how serious.

On these points, however, I can report that in response to our six-month investigation, just this week HHS strengthened its criminal background check policy effective January 25—as outlined in our report. But I continue to be troubled by the fact that HHS told us that it is literally unable to figure out how many children it has placed with convicted felons, what crimes those individuals committed, or how that class of children are doing today.

The bottom line is that this is unacceptable. HHS has placed children with non-relatives who have no verified relationship with the child, who receive no home visit or in-person interview, whose household members have unknown backgrounds or criminal records, and who can freely cut off social worker's access to the child. Worse, when senior HHS officials were alerted to trafficking risks due to the Marion cases and other evidence of children working in debt labor, they failed to adequately strengthen their policies — despite the fact that the Senate Appropriations Committee tells us that HHS has more than $350 million in *unspent* funds for the UAC program from the past 2 years.

Perhaps the most troubling, unanswered question is this: how many other cases are there like the Marion trafficking case? The answer is HHS doesn't know. The Subcommittee has reviewed more than 30 cases involving serious indications of trafficking and abuse of UACs placed by HHS over the past three years. But human trafficking occurs on a black market, and other forms of abuse occur in the shadows. The Department maintains no regular means of tracking even *known* cases of trafficking or abuse, and it does too little to monitor the status or well-being of the tens of thousands of children that it has placed. There

are, in the words of one leading care provider, untold numbers of effectively "lost" migrant children in the U.S.

What I can say with confidence is that HHS's policies expose unaccompanied minors to an unreasonable risk of trafficking, debt bondage, and other forms of abuse at the hands of their sponsors. That must change. Today we will seek answers from the Administration and discuss a path forward toward what I know is our shared goal of strengthening this system to protect every child in America.

With that, I will turn to our Ranking Member, Senator McCaskill, for her opening statement. And I want to thank Senator McCaskill for partnering with me on this important project.

Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children from Human Trafficking
January 28, 2016

Senator Claire McCaskill

Opening Statement

Thank you, Chairman Portman. I would like to thank you for bringing the topic of this hearing and the Subcommittee's investigation to my attention. This has truly been a cooperative and bipartisan investigation, and I appreciate the opportunity to work with you to bring these issues to light.

If the Ohio cases you just described represented the total number of unaccompanied children exploited by their sponsors, we would be justified in holding this hearing. As the Subcommittee has discovered, however, the unaccompanied children who were trafficked in Marion are only a few of those who have fallen prey to trafficking or abuse by their sponsors.

HHS placed one 16-year old with a sponsor who claimed to be her cousin. In fact, he was completely unrelated to her and had paid for her to come to the U.S. as a sort of mail-order bride. The minor, who had endured a sexual assault in her home country, was forced to have sex with her sponsor. She appealed to a post-release services provider for help and was ultimately removed by Child Protective Services. In another case, a 17-year old was released to an unrelated "family friend" who reported living with three additional unrelated adult men. HHS released this teen to the sponsor without conducting background checks on any of the unrelated adult men with whom he would be living, without conducting a home study of his sponsor's home, and without providing him with post-release services. Last June, this minor contacted

HHS to let the agency know his "sponsor" was actually the son of a labor recruiter, who had approached the teen in Guatemala about an opportunity to work in the U.S. Upon being placed by HHS with the sponsor, the minor was forced to work almost 12 hours per day in conditions that made him ill. The teen ultimately ended up living in a home belonging to his employer, along with 14 other employees, before running away.

Similar examples fill the case files reviewed by the Subcommittee: vulnerable and traumatized minors abused by their sponsors, or forced to engage in backbreaking labor for little or no pay, while being housed in unsanitary and dangerous conditions.

This is not just a failure of our moral obligation to protect the most vulnerable—it is a failure of a legal obligation as well. Under the 1997 Flores Agreement, the Trafficking Victims Protection Reauthorization Act (or TVPRA), and other statutes, HHS has responsibility for ensuring that unaccompanied minors are released to sponsors capable of providing for their physical and emotional wellbeing. At a minimum, HHS must make an independent finding that a child's sponsor, quote, "has not engaged in any activity that would indicate a potential risk to the child," unquote. For many children, HHS failed to fulfill this fundamental responsibility.

The Subcommittee's investigation also revealed that HHS has failed to address systematic deficiencies in their placement process, even after these deficiencies were highlighted by the Ohio case. In many cases reviewed by the Subcommittee, HHS failed to ensure that the relationship between a child and a proposed sponsor was properly verified, failed to detect individuals who attempted to sponsor multiple children, failed to ensure sponsors had adequate income to support the children under their care, failed to conduct background checks on all adults living in a sponsor's home, and failed to employ home studies and post-release services to

detect red flags for abuse and trafficking. In addition, the Subcommittee found that HHS does not even maintain regularized, transparent guidelines governing the UAC placement process and has not established specific policies and programs to protect unaccompanied minors from traffickers—despite a clear mandate from Congress in 2008 to do so.

Further, HHS has failed to fulfill its obligation to clarify its role in the UAC placement process with respect to the other various federal agencies tasked with caring for unaccompanied minors in government custody. Despite a 2008 recommendation from the HHS Office of Inspector General, HHS has not established a memorandum of understanding with DHS to clearly delineate the roles and responsibilities of each department. In fact, HHS and DHS have failed to even agree on which department has responsibility for ensuring the safety of children released from HHS custody. Moreover, despite clear and unqualified statutory language vesting the care and custody of all unaccompanied alien children with the Secretary, HHS continues to assert that its custody of these children—and by extension its power to insist on post-release contact and services for these children—terminates upon their release of these children to sponsors. So when children placed by HHS find themselves in the terrible scenarios I described moments ago, HHS's response is "It's no longer my problem."

Given these significant failures, we would have expected HHS to have taken prompt and aggressive action to improve its policies and procedures. During an interview with the Subcommittee in October, however, the ORR Deputy Director of Children's Services indicated she was unaware of *any* failure to follow HHS procedure in the Marion cases or *any* potential policy change that would have prevented those events. Nor has *any* HHS official accepted responsibility for the outcome in Ohio during conversations with the Subcommittee.

I am encouraged by the Department's decision, as of just a few days ago, to begin requiring background checks for other adults living in a sponsor's home and to prevent individuals with certain felony convictions from sponsoring children. Unfortunately, it isn't enough.

I have spoken too many times from this dais about the need for transparency and accountability in the federal government. I have spoken too many times about the importance of establishing clear lines of authority between government agencies. As a mother and grandmother, my heart goes out to these children who have already suffered so much. As a lawmaker dedicated to improving the effectiveness of government, I am outraged by HHS's failure to meet its legal obligations and protect the most vulnerable individuals who reach our borders. Today, I hope to find some answers.

I thank the witnesses for being here, and I look forward to their testimony.

Statement by

Mark Greenberg
Acting Assistant Secretary
Administration for Children and Families
U.S. Department of Health and Human Services

Before the

Permanent Subcommittee on Investigations
Committee on Homeland Security and
Governmental Affairs
United States Senate

January 28, 2015

Chairman Portman, Ranking Member McCaskill, and members of the Subcommittee, thank you for inviting me to discuss the Department of Health and Human Services' (HHS) responsibilities regarding unaccompanied children. We have been working with you and your staff on your investigation into the Unaccompanied Children's Program since July. We appreciate your interest in ensuring this program meets its critical goal of providing for appropriate care of unaccompanied children. As I will describe in more detail in my testimony, the number of children referred to ORR's care over the last number of years has grown significantly. HHS has worked hard to adapt to this rapid increase in the size of the program, bringing on additional staff and expanding its network of providers. HHS also has adjusted a number of its policies to more efficiently and effectively respond to unexpected fluctuations in migration, while also maintaining the highest possible standards of care for this vulnerable population. The Marion, Ohio labor trafficking case demonstrates the vulnerability of these children. We are committed to releasing each unaccompanied child to an appropriate sponsor who will provide for the best interest of the child while the child's immigration case proceeds. We continually work to strengthen our policies and operations in this regard. In my testimony today, I will describe the role that HHS plays in relation to unaccompanied children under Federal law, the process by which HHS identifies and vets suitable sponsors of unaccompanied children, the circumstances under which post-release services are made available to unaccompanied children and their sponsors, and HHS's efforts to combat human trafficking.

Role of the Office of Refugee Resettlement

Unaccompanied children are referred to the HHS Office of Refugee Resettlement's (ORR) Unaccompanied Children Program in the Administration of Children and Families by other federal agencies, usually the Department of Homeland Security (DHS). Most unaccompanied

children arrive at the southern border. Upon apprehension, DHS refers a child to ORR within 72 hours, except in exceptional circumstances, after determining that the child is an unaccompanied child.

Since 2003, the Unaccompanied Children Program has cared for more than 190,000 children. The number of unaccompanied children referred to the program each year was generally in the range of 6,000 to 7,000 until fiscal year (FY) 2012. Those numbers increased from 13,625 in FY 2012 to 24,668 in FY 2013 and 57,496 in FY 2014. In FY 2015, 33,726 unaccompanied children were placed in ORR's care.

Demographics and Reason for Leaving their Country of Origin

Most children referred to the Unaccompanied Children Program, both historically and currently, are from Honduras, Guatemala, and El Salvador. Historically, the great majority of unaccompanied children were males over the age of 14. While older males still comprise the majority of the population, in recent years, the shares that are female and younger, respectively, have both increased. Between 2012 and 2015, the share of unaccompanied children who are female has grown from 23 percent to 32 percent, and the share of children 12 and under has grown from 11 percent to 17 percent. In addition, in 2012 only one percent of children referred to us were ages five and under while in 2015 this number rose to three percent.

There are a number of reasons that unaccompanied children embark on the dangerous journey from their countries of origin to the United States. Some of these children are fleeing from poverty and violence in their home country, seeking to rejoin family members already here, and/or hoping to find work to support their families in their home countries. The age of these unaccompanied children, their separation from parents and relatives, and the perilous journey

they undertake make them especially vulnerable to human trafficking, exploitation, and abuse on their way to the United States.

Care of Children in ORR's Custody

ORR's care and placement of unaccompanied children is governed by established child welfare protocols as well as federal statutes and obligations, including the *Flores Settlement*. When unaccompanied children are referred to ORR, they generally are cared for in one of a network of ORR-funded shelters while staff works to determine if they have appropriate sponsors with whom they can live while awaiting immigration proceedings.

Soon after a child arrives at a shelter, trained staff conduct an initial interview. This interview is a first round of HHS screening and is used to determine, among other things, whether the child may be a victim of abuse, a crime, or human trafficking. The screening may also indicate if the child has any immediate medical or mental health needs. If a mental health concern is detected during this screening, such as a history of trauma or violence, additional screenings are completed by specially-trained mental health clinical staff or case managers with clinical experience.

Unaccompanied children remain in ORR's care and custody until they are released to a parent, family member, or other qualified sponsor in the United States, are repatriated to their home country, obtain legal status, or turn 18 years old (at which time they are transferred to the custody of DHS).

Safe and Timely Release Policies and Procedures

Under the *Flores* settlement agreement, HHS is required to provide for the timely release children and youth to qualified parents, guardians, relatives or other adults, referred to by ORR as "sponsors," subject to certain considerations, such as danger to self or the community and risk of flight. Upon release, a child is cared for by the sponsor while his or her immigration case is processed.

The process for safe and timely release of an unaccompanied child from ORR custody involves many steps. ORR is continuously working to strengthen those policies and procedures and, as described below, has in the last year instituted a number of enhancements to pre-release screening of sponsors and post-release services available to both children and their sponsors.

Identification of Potential Sponsors

As soon as an unaccompanied child enters ORR's care, ORR begins the process of locating family members and others who may be qualified to care for the child. Parents, other relatives, or family friends can apply to have the child released to their care.

A case manager at the ORR-funded care provider facility interviews the child as well as the potential sponsor, whether it be a parent, legal guardians, and/or family members, in order to identify qualified sponsors. The *Flores Settlement* establishes an order of priority for sponsors with whom children should be placed. The first preference for placement is with a parent of the child. If a parent is not available, the preference is for placement with the child's legal guardian, and then to various adult family members, then to a family friend. ORR follows this order of

priority in making placement decisions. In FY 2015, 93 percent of children released to a sponsor were released to a family member.

Application Process

Within 24 hours of identifying a potential sponsor, a case manager at the care provider facility sends the potential sponsor a packet with the *Family Reunification Application* and related documents. All potential sponsors must complete this application.[1]

The sponsor is required to sign the application, affirming that the information contained in the application is correct, and that the sponsor will abide by the care instructions in the *Sponsor Care Agreement*, provide for the physical and mental well-being of the minor, and comply with state laws regarding care of the minor. By signing the *Sponsor Care Agreement*, the sponsor agrees to, among other things, provide for the physical and mental well-being of the minor and notify local law enforcement and/or child protective services if the minor has been or is at risk of being abused, abandoned, neglected or maltreated, or has disappeared. Additionally, the sponsor must notify relevant agencies of any change of address or phone number and agree to ensure the minor's presence at all future appearances before DHS's U.S. Immigration and Customs Enforcement (ICE) and the Department of Justice's Executive Office for Immigration Review (EOIR).[2]

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[1] A copy of the application is available at http://www.acf.hhs.gov/programs/orr/resource/unaccompanied-childrens-services.

[2] A copy of the *Sponsor Care Agreement* is available at http://www.acf.hhs.gov/programs/orr/resource/unaccompanied-childrens-services.

Evaluation of the Suitability of the Sponsor

In addition to completing and signing the *Family Reunification Application*, a sponsor must provide information and supporting documentation so that ORR can verify his or her identity and relationship, if any, to the child in ORR's care. To prove a sponsor's identity, ORR requires all sponsors to submit one form of government- issued photo identification and a copy of their birth certificate. To prove the sponsor's relationship to the child, ORR requires certain documentation depending on the relationship of the sponsor to the child (e.g., for a parent, the child's birth certificate showing the parent's name would be required). If there is a question as to the authenticity of the documents, ORR will work with the issuing country's consulate or embassy to verify the documents. The potential sponsor must also provide information and supporting documents so that ORR can assess his or her ability to care for and provide for the wellbeing of the child, including identifying potential risk factors or other safety concerns. In addition, ORR considers both the child's and the child's parent's or legal guardian's perspective on the child's potential release to a particular sponsor.

Background Checks and Sponsor Assessment

Potential sponsors for unaccompanied children are required to undergo background checks and complete a sponsor assessment process. ORR has recently enhanced its policies, requiring additional checks for sponsors and others who are likely to come into contact with the child post-release. All potential sponsors and individuals identified in the sponsor care agreement (the "back-up" sponsor identified by the potential sponsor who will care for the child in the event the potential sponsor is unable to), must complete a criminal public record check, based on the sponsor's name and address, and a sex offender registry check. Additionally, a

fingerprint background check is required whenever the potential sponsor is not a parent or legal guardian. When the potential sponsor is a parent or legal guardian, a fingerprint background check is required when there is a documented risk to the safety of the minor, the minor is especially vulnerable, and/or the case is referred for a home study. Fingerprint checks are also required for individual sponsors, and individuals identified in a sponsor care plan, in any case where criminal history is revealed by the criminal public records check or sex offender registry check. The fingerprints are cross-checked with the Federal Bureau of Investigation's (FBI) national criminal history and state repository records, which includes DHS arrest records. For an unresolved criminal arrest or issue still in process, ORR may conduct an additional state or local check to assist in locating arrest records or other criminal offense details.

ORR-funded care providers request a child abuse and neglect (CA/N) registry check for potential sponsors in any case where a home study is conducted or where a special concern is identified. Additionally, as of March 2015, care providers conduct CA/N checks in any case in which the sponsor is unrelated or distantly related (e.g. a second cousin) to the unaccompanied child. CA/N checks are obtained on a state by state basis for all localities in which the potential sponsor has resided in the past five years. (For a discussion of how ORR uses information received from these background checks in conjunction with other information from the assessments and home visits to make a placement decision, see "Sponsor Release Decisions" below.)

Unaccompanied Child Assessment

Each child is screened by a case worker during the initial ORR intake process to determine, among other things, if there are indications that he or she may be a victim of trafficking or

abuse, have a disability, or have mental health needs, such that additional services might be appropriate. Staff at the ORR-funded care provider conduct a more thorough assessment, covering biographic, family, legal/migration, medical, substance use, and mental health history. This information is documented in each child's case file and periodically reviewed as necessary throughout the child's stay in ORR custody. The information is used to evaluate whether a potential sponsor can provide for the particular needs of a child and whether the child might qualify for a home study and/or post-release services.

Screening Unaccompanied Children for Human Trafficking

As described above, every unaccompanied child that enters ORR's care is screened for signs of trafficking, and ongoing assessments of the child are conducted throughout the child's stay in ORR care. Most unaccompanied children are also screened by an ORR-funded legal service provider to determine whether the child may be eligible for potential legal relief, including a T-visa. A child who is found to be a victim of a severe form of trafficking is not placed with a sponsor until a home study has been conducted, and that child receives post-release services, which are described in more detail below. Additionally, foreign-born minors who are unaccompanied, including unaccompanied children, who are victims of a severe form of trafficking may apply for an HHS-issued Eligibility Letter for federally-funded refugee benefits and services, which may include eligibility for ORR's Unaccompanied Refugee Minors (URM) program. Unaccompanied children referred to the URM program are placed in licensed foster homes, group care, independent living, residential treatment settings or other care settings according to individual needs. An appropriate court awards legal responsibility to the state, county, or private agency providing services, to act in place of the child's unavailable parents.

In FY 2015, HHS issued 240 Eligibility Letters to children, most of whom were unaccompanied children. This was a 10 percent increase from the 219 Eligibility Letters issued in FY 2014 and a 110 percent increase from the 114 Eligibility Letters issued in FY 2013. The top four countries of origin of child victims who received Eligibility Letters in FY 2015 were Mexico, Guatemala, El Salvador, and Honduras.

Home Studies

Some children will not be released to a sponsor until a home study is conducted. A home study is an in-depth investigation of the potential sponsor's ability to ensure the child's safety and well-being. The process includes background checks of the sponsor and adult household members, home visit(s), in-person sponsor interview and possibly interviews with other household members, and post-release services. The TVPRA requires a home study for "a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in 42 U.S.C. § 12102(2)), a child who has been a victim of physical or sexual abuse, under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence."[3]

Additionally, as of July 27, 2015, home studies are required for all children who are being released to a non-relative sponsor who has previously sponsored or proposes to sponsor more than one child to whom the sponsor is not related. Effective July 1, 2015, ORR implemented

[3] 8 U.S.C. § 1232(c)(3)(B) (also requiring that ORR conduct follow-up services, during the pendency of removal proceedings, on children for whom a home study was conducted).

mandatory home studies for all children ages 12 and under, being released to non-relative or distantly related sponsors through a pilot program.

Review of Household Members

ORR's longstanding policy has been to conduct background checks on other individuals living with the potential sponsor ("household members") when a home study is conducted. ORR recently revised this policy so that all household members are subject to background checks in all cases. Specifically, public records checks and sex offender registry checks are now conducted for all adult household members. Fingerprint background checks of the Federal Bureau of Investigation's (FBI) national criminal history and state repository records, which includes DHS arrest records, are conducted for adult household members where a public records check reveals possible disqualifying factors; or where there is a documented risk to the safety of the unaccompanied child, the child is especially vulnerable, and/or the case is being referred for a mandatory home study. Child Abuse and Neglect (C/AN) checks are conducted of adult household members in any case where a special concern is identified. Finally, state criminal history repository checks and/or local police checks are conducted adult household members on a case-by-case basis when there is an unresolved criminal arrest or issue that is still in process.

Decision Process for Releasing a Child to a Sponsor

The release decision process involves multi-layer reviews and recommendations by care provider staff, non-governmental third-party reviewers (Case Coordinators), and ORR Federal Field Specialists (FFS). ORR makes the final decision regarding an unaccompanied child's placement with a sponsor.

The decision is based on the best interest of the child, taking into account the totality of the circumstances. ORR will deny release to a potential sponsor if the potential sponsor is not willing or able to provide for the child's physical or mental well-being; the physical environment of the home presents risks to the child's safety and well-being; or release of the unaccompanied child would present a risk to him or herself, the sponsor, household, or the community.

In the event that a background check of a potential sponsor or adult household member(s), or individual identified in a sponsor care plan, reveals a criminal history or a safety issue, the care provider evaluates this information and works with the potential sponsor to obtain detailed information on any charges or adjudications that have bearing on a sponsor's ability to provide for the child's physical and mental well-being. ORR's policies provide guidance regarding the types of criminal history that may be a basis for denying release. Recently, ORR has enhanced its policies, requiring release to be denied to a potential sponsor that is not a parent or legal guardian if the potential sponsor or a member of the potential sponsor's household 1) has been convicted of a certain felonies, including a crime against a child, a violent crime, drug-related offenses, or trafficking; or has a criminal history or pending criminal charges or child welfare adverse findings from which one could reasonably infer that the sponsor's ability to ensure the safety and well-being of the child is compromised; or 2) has certain substantiated adverse child welfare finding, for example, severe or chronic abuse and neglect. Similarly, ORR will reject any sponsor care plans that identify an adult caregiver who has any of the disqualifying criteria. It is not the practice of ORR to place children with sponsors who have serious criminal convictions.

Planning for Post-Release

Throughout the release process, care providers work with the child and sponsor so that they can plan for the child's needs after he or she is released to a sponsor. Additionally, as described above, the sponsor agrees to comply with the provisions of the *Sponsor Care Agreement* as part of the application process.

The care provider also provides the sponsor with a Sponsor Handbook that outlines the responsibilities for caring for the unaccompanied child's needs, including providing for the child's education and health, obtaining legal guardianship, finding support to address traumatic stress, and keeping the child safe from child abuse, neglect, trafficking, and exploitation. The Handbook reiterates the importance of continuing to comply with immigration proceedings and includes links to EOIR's website and forms. The Handbook also discusses laws related to employment to inform sponsors that unaccompanied children are not authorized to work while their immigration proceedings are on-going.

In May 2015, ORR expanded its Help Line to provide unaccompanied children a resource for safety-related concerns, as well as sponsors a resource for assistance with family problems and child behavior issues, referrals to community providers, and assistance finding legal support and enrolling unaccompanied children in school. Every child released to a sponsor is given a card with the Help Line's phone number.

The care provider notifies ICE and EOIR of the child's discharge date and change of address and venue, as applicable. The care provider coordinates with the legal service provider or attorney of record to help complete the necessary legal forms.

Post-Release Services

ORR is responsible for providing care to children referred by immigration authorities until they are placed with an adult family member or responsible adult sponsor. Once custody has been transferred to a sponsor, the care and well-being of the child becomes the responsibility of the sponsor.

Under the TVPRA of 2008, ORR offers follow-up services or "post-release services" in cases where there has been a home study. Additionally, ORR may provide follow-up services in cases involving children with mental health or other needs that could benefit from ongoing assistance from a social welfare agency. In July 2015, ORR began a pilot project to assess implementation of an expansion of post-release services to all unaccompanied children released to a non-relative or distant relative sponsor, as well as children whose placement has been disrupted or is at risk of disruption within 180 days of release and the child or sponsor has contacted the ORR Help Line.

Post-release services are intended to help link the child and/or the sponsor with community services or other on-going assistance. Post-release service providers coordinate referrals to supportive services in the community where the unaccompanied child resides and provide other child welfare services, as needed. In the event that a post-release service case worker finds the home unsafe, he or she is required under state and local laws to report those conditions to state child protective services or local law enforcement.

In August 2015, ORR began conducting check-in telephone calls with sponsors and the unaccompanied child in their care, thirty days following the child's release. The call is intended to identify any issues with respect to child safety and to provide sponsors with a resource for assistance with family problems and child behavior issues, referrals to community providers, and

assistance finding legal support and enrolling unaccompanied children in school. If the care provider believes that the child is unsafe, the care provider must comply with mandatory reporting laws, State licensing requirements, and Federal laws and regulations for reporting to local child protective agencies and/or local law enforcement.

HHS's Efforts Related to Trafficking

ACF works with Federal partners on several trafficking prevention initiatives including providing targeted training for human service professionals working with high-risk populations including child welfare, runaway and homeless youth, domestic violence, and Native American community organizations. Consistent with its statutory authorities, HHS also serves a broad range of survivors of human trafficking: adults and children; foreign nationals (including lawful permanent residents) and U.S. citizens; and survivors of labor and commercial sexual exploitation. HHS has systematically worked to institutionalize anti-trafficking responses across its multiple programs and to increase coordination and collaboration within HHS and with federal partners by implementing the Federal Strategic Action Plan on Services to Victims of Human Trafficking in the United States.[4]

As part of HHS efforts to strengthen community-based safety nets for victims of trafficking and those at high risk for trafficking, HHS nearly doubled its funding to provide assistance to victims of human trafficking, raise public awareness, and train first responders since FY 2012. In FY 2015, we provided more than $17 million in funding to support anti-trafficking programs, including training, victim identification, and response to trafficking in child welfare, runaway and homeless youth programs, domestic violence, and health care settings.

[4] Available at http://www.acf.hhs.gov/programs/endtrafficking/initiatives/federal-plan.

In June 2015, ACF established the Office of Trafficking in Persons (OTIP) to reflect the importance of anti-trafficking work, to coordinate its programs on behalf of both foreign and domestic victims, and to strengthen its attention to policy and practice issues related to addressing trafficking across ACF.

HHS trains law enforcement, health and human service providers, and other first responders to increase the screening and identification of human trafficking through a network of grantees and through training provided through the National Human Trafficking Resource Center. OTIP Child Protection Specialists provide case consultations and specific training on the Child Eligibility process to ORR staff and shelter providers, case coordinators, community-based programs, child welfare agencies, and federal and local law enforcement. HHS is currently testing and validating a child trafficking screening tool to be used in child welfare and runaway and homeless youth settings, including systems that may serve foreign-born victims of trafficking and those at high risk for trafficking.

Conclusion

ORR's goal is to ensure that all unaccompanied children are released to sponsors who can provide for their physical and mental well-being. As described above, in recent months ORR has made a number of enhancements to the pre-release screening process and has created additional resources, such as the hotline, for children post-release. We are mindful of our responsibilities to these children and are continually looking for ways to strengthen our safeguards. While I cannot discuss the specific details of the children in the Marion, Ohio case due to the ongoing criminal investigation, I welcome working with this Subcommittee and Congress in efforts to improve the Unaccompanied Children's Program for all of the children that we serve. Thank you for the

opportunity to discuss this critical issue with you. I am accompanied by my colleague, Bob Carey, who is the Director of ORR. Mr. Carey and I would be happy to answer any questions.

WRITTEN STATEMENT BY
Tiffany Nelms, Associate Director, Unaccompanied Children's Services
U.S. Committee for Refugees and Immigrants
On
"The Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children from Human Trafficking"
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate
January 28, 2016

Good afternoon. My name is Tiffany Nelms. I am a social worker and the Associate Director of Unaccompanied Children's Services at the U.S. Committee for Refugees and Immigrants. Thank you to Chairman Portman, Ranking Member McCaskill and Members of the Subcommittee for opportunity to amplify the voices of the thousands of children seeking safety and protection in the United States and to share their stories. For nearly a decade, I have worked with these children, and their perseverance and many successes motivates me to continue this work but our failures to protect and adequately support them keeps me up at night.

Let me tell you about a girl who I will call Karen. Her family eked out a meager living by selling bottled water and candy to tourists in a popular beach town in Honduras. After completing only a few years of school, Karen was forced to drop out to work and help support her family. For many years, Karen's extended family was targeted by gangs because they refused to pay a "tax" or "renta". This is a tactic commonly used by gangs to extort money from regular people. In exchange, those who pay the taxes can live in, work in or transit a community the gang has claimed. When she was 10 years old, Karen's uncle was murdered by the gang, a punishment for his refusal to pay the "tax. " The murder served as a warning, and Karen's parents fled, hoping to fall off of the gang's radar. Unfortunately, their house was subsequently burned to the ground.

The threats and intimidation continued. Desperate to find safety for their daughter, Karen's parent's allowed her to leave town with a man who offered to make her his wife, protect and provide for her. At 14, Karen became pregnant, and her husband began to control everything she did. After the child was born, the physical, emotional, and sexual abuse escalated. She did not seek help from the authorities because domestic violence is rarely prosecuted in her country. Karen eventually left her husband, and she and her child sought safety with her parents who were living with Karen's cousin. However, this cousin was kidnapped, tortured and murdered by members of the local gang as punishment for resisting their sexual advances and attempts to recruit her. The gang left her body in pieces on her doorstep as another warning of what could happen to Karen and her family. The murders of Karen's uncle and cousin were never investigated; this deepened the family's distrust of the local authorities. Fearing she might be next, Karen fled to the U.S. After crossing the border, Karen was detained and then transferred to the care of the Office of Refugee Resettlement (ORR).

It is a tragedy that a child must experience so much trauma at such a young age. But, it is even greater tragedy that we, as a nation, do not have the adequate infrastructure and resources to provide Karen and other children like her with the safety and protection they need. Once in the U.S., Central American children are placed in the custody of ORR. The vast majority reunify with family in the US until their immigration cases are adjudicated. Many of these children reunify with parents who have been living legally in the U.S. for ten years or more.

For the past six years, my agency has provided Post Release Services to unaccompanied children. These services are an extension of our nation-wide, pro-bono legal services network, which we have managed for ten years. Over the past decade, my colleagues and I have witnessed conditions in Central America deteriorate. In the past two years, in particular, we have seen rapid increases in the number of children, most of whom qualify for refugee status, who are seeking basic protection from violence, abuse and neglect in their communities. These children's needs are not being met in their countries of origin. Our observations and our comprehensive experience with these children have informed our "Six Solutions," which we recommended to Congress and the Obama Administration in 2014. The U.S. government is now expanding its response to the needs of unaccompanied children. This expanded response involves an in-country processing program for some children and, more recently, a program to partner with the UN High Commissioner for Refugees to process refugee claims in Central America. These are two of the solutions we proposed eighteen months ago.

Domestically, ORR has made strides in reducing the length, on average, of children's stay in shelters and is more expeditiously reunifying children with their families. Many reunifications are very successful. Children seamlessly integrate into their new homes, enroll in school, and access legal representation for their immigration cases.

Presently, approximately 10% of Central American children qualify for limited social services (three home visits in six months) after they reunify with their families. Children that are eligible typically have a history of severe abuse, neglect, have a disability or are survivors of human trafficking; or are being placed with a sponsor who poses a risk of harm. Sadly, approximately 90% of the children receive no post release services once they are discharged from ORR care. Today, many of the 10% of children that do qualify for these services end up on a waitlist and some vulnerable children must wait up to six months before a provider is available to serve them.

There is no other system that places children, some that have no prior relationship with the caregiver, and provides no follow up or monitoring of the child's wellbeing after the placement Most children speak some English and at least have access to informal "helpers" such as teachers, pediatricians and police officers—connections within their communities who are trust-worthy and will notice any irregularities, or at worst, abuse or neglect. These are connections that are not guaranteed for unaccompanied children with limited English proficiency often with no connections to their communities beyond their sponsors. These children are especially vulnerable to being abused, neglected, exploited or trafficked by their sponsors.

Post release services are critical. They connect unaccompanied children to medical and mental health care, ensure that children are enrolled in school in compliance with compulsory attendance laws, and provide children with access to legal representation, something that is not

guaranteed for unaccompanied children and, which significantly increases their likelihood of attending their immigration hearings. In addition to ensuring access to resources, post release service providers monitor the children's wellbeing and integration to their new homes and communities. Social workers who facilitate post release services also guide and educate sponsors and caregivers to navigate the effects of trauma and support children as they adjust and integrate. These social workers also detect situations in which children are abused, neglected, exploited or trafficked by their sponsors. Through its post release services program, USCRI has identified victims of trafficking including a 17-year-old girl who was reunified with her mother but forced to dance in a cantina and a 15-year-old boy who was forced by his sponsor to perform manual labor six days a week.

In another situation, local child welfare authorities who were familiar with USCRI contacted us and sought technical assistance in serving a 14-year-old unaccompanied child who became pregnant as a result of sexual abuse by her father following their reunification. With post release services, this abuse might have been prevented or detected earlier.

Post release services work. The children served through USCRI's program have a 95% attendance rate at their immigration hearings and similar outcomes for school attendance. Every child served by USCRI's post release service program is provided with access to low or no cost medical and mental health services.

As a result of the increasing numbers of unaccompanied children from Central America, post release services are being stretched thin, and the quality of these services is in jeopardy. We must do more with less: increase caseloads while we reduce the amount of time spent with each child and their family members navigating their sometimes complex needs and challenges.

Some children are granted additional protections due to the Trafficking Victims Protection Reauthorization Act. These children must remain in ORR care until a post release services provider has the capacity to serve them, increasing the length of detention for many children due to the limited capacity within the current network. This also significantly increases costs as shelter stays are more expensive than post release services in the community.

How can we address these gaps? With over 100 years of experience, we, at the U.S. Committee for Refugees and Immigrants, know how to resolve these sorts of issues. Here are three recommendations:

1) Make post release services available to every unaccompanied child.

   In addition to witnessing and experiencing severe violence and threats, these children face trauma when separated from their parents and communities. We recommend that post release services are provided through a tiered system wherein survivors of trafficking and violence receive more intensive services, and children with stable, protective and supportive families receive less intensive services.

2) Expand capacity within the national post release services networks so children are served in a more efficient and expeditious manner, reunited with family in a timely and safe way, and able to access the education and medical and mental health care that all children deserve. We know that childhood trauma can impact people's mental and physical health throughout their lives. Untreated trauma can lead to interrupted education, chronic health conditions, maladaptive behaviors, depression and even suicide. With the support of post release services, children are able to access life-changing care, which can help them heal and begin to overcome past trauma. Post release services also ensure that children are less likely to be re-traumatized or exposed to abuse or neglect in the U.S. We must continue to see them as children first and as refugees seeking protection second. We must respect their rights to safety and protection and provide quality services grounded in social work best practices that allow the worker to make a meaningful impact and that enhance the strengths and protective capabilities of the families.

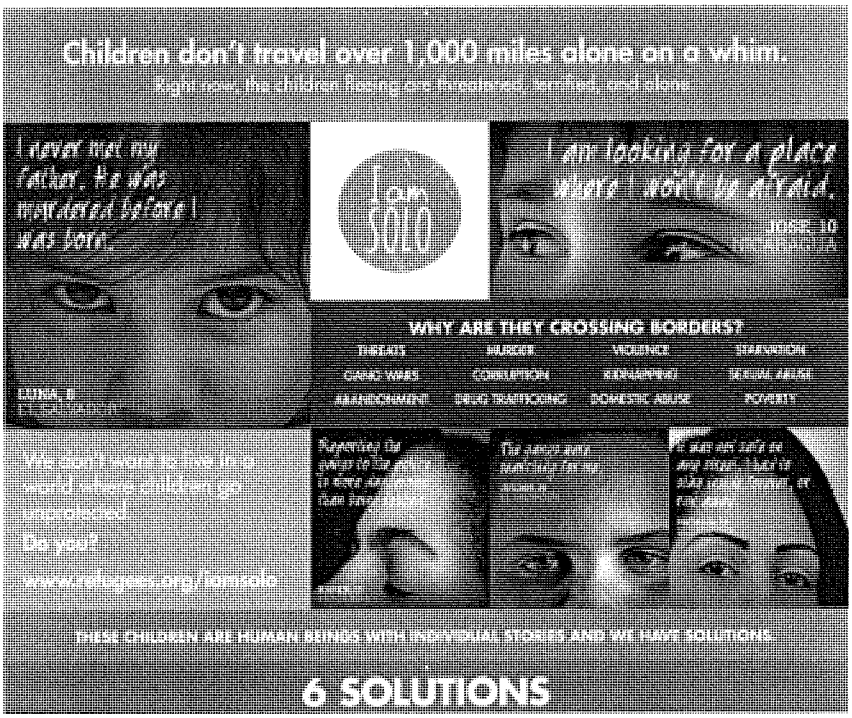
3) Streamline reunification processes in consultation with national post release service providers.

   We agree that the reunification process could be streamlined for some children, but these policy changes should be developed in consultation with the providers that intimately know the risks and challenges children face after release from ORR care With this knowledge, ORR's various grantees could work with the government to identify and mitigate some of the risks associated with speeding up reunifications.

   Some of the recent streamlining policies include waiving fingerprinting and child abuse registry checks for many sponsors. These screenings are conducted in cases in which the clients have experiences of trafficking or severe abuse, the clients have disabilities, or the sponsors have criminal histories.

   In 2007, social workers had 90 days to conduct thorough assessments of potential reunification plans. This timeframe was later reduced to 30 days. In the last month, the timeframe was reduced again to a mere 10 business days. While we agree that some home studies can be completed within this shortened timeframe, the more complex cases require interviews, home visits and follow up activities that cannot be adequately completed in 10 business days.

We recognize that these children have fled to the U.S. seeking protection, and we take seriously our role as guardians while their immigration claims are reviewed and evaluated. When a child receives due process resulting in a deportation order, he or she must return to his or her country of origin. However, while these children are in our care, we can do more to welcome and protect the most vulnerable among us.



❶ RESPECT FAMILIES

Allow parents or legal guardians from El Salvador or Honduras who reside legally in the U.S. under Temporary Protected Status (TPS) to apply for their minor children to reunite. Their minor children may be residing either in the U.S. or in their country of origin and their status would be linked to their parents. This will immediately reduce immigration court backlogs and apply to an estimated 30-40% of the children surrendering at the borders.

❷ KEEP KIDS OUT OF THE COURTROOM

Institute a Children's Corps based on the Asylum Officer Corps model. Children Corps officers would be trained in child-sensitive interview techniques and Best Interest Determination standards. They would determine if a child is eligible for legal relief such asylum, Special Immigrant Juvenile Status (SIJS), Trafficking Victims Visa (T-Visa) or other forms of legal relief. This would move the adjudication process from an adversarial, judicial process to an administrative process for most children. Those who are not eligible for legal status would be placed in removal proceedings. It is estimated that 40% to 60% may be eligible for legal protection.

❸ HELP CHILDREN AVOID THE DANGEROUS JOURNEY

In-Country Processing allows applicants to apply for refugee status in their home country. The children would have to meet the U.S. refugee definition, be otherwise admissible, and would be resettled in an orderly fashion. In-country processing has been used in the past for the resettlement of Soviet Jews, Vietnamese, and Cubans, so they could avoid life-threatening escapes. Other countries in North or South America may also be willing to accept children for resettlement.

❹ ENGAGE THE UN REFUGEE AGENCY (UNHCR)

Unaccompanied children and adults can receive international protection from UNHCR after they have fled their home country. Through long established procedures, the UNHCR could then refer their cases for resettlement to a receiving country. The U.S. Department of State coordinates the program, the refugees are interviewed by a USCIS Officer and, if approved for entry, undergo extensive security and medical clearances prior to being moved to the U.S.

❺ FORGIVE THE CHILDREN

Grant Children's Protected Status (CPS) to all unaccompanied children who have already been brought into custody. As precedent, the Cubans and Haitians who arrived illegally during the Mariel Boatlift in 1980 were given Cuban/Haitian Entrant Status. Simultaneously with the announcement of CPS, the government could announce a cut-off date for all future arrivals. After the cut-off date, new arrivals would be subject to expedited removal. Granting CPS will relieve the government of the burden and cost of adjudicating the cases of thousands of unaccompanied minors. This will increase capacity for the Department of Homeland Security to handle other immigration cases.

❻ INTRODUCE HOPE

Create a Regulated Entry Procedure (REP) for 10,000 Unaccompanied Immigrant Children per year per country from Honduras, El Salvador, and Guatemala. As precedent, to end the Mariel Boatlift in 1980, a lottery was established which allows 20,000 Cubans to enter the US every year. The hope of "winning" has kept Cubans from hazarding the ocean for the last 34 years. The Central American Children would be permitted to enter the U.S. legally through a regulated system managed and processed by the U.S. Government.

January 28, 2016
Written Testimony of Jennifer Justice
Deputy Director
Ohio Department of Job and Family Services
Homeland Security and Governmental Affairs Committee
Permanent Subcommittee on Investigations

Chairman Portman, Ranking Member McCaskill, and members of the subcommittee:

Thank you for the opportunity to provide testimony to explain the foster care licensing process in the state of Ohio. I oversee Ohio's child welfare system at the Ohio Department of Job and Family Services (ODJFS) and have held this position since August of 2011. I have worked professionally in child welfare for 19 years, both at the local and state levels, and have had direct oversight of approving and denying foster parent applications. In my current position, I am charged with supervising Ohio's child protection programs, including protective services, kinship, foster care, adoption, Interstate Compact for the Placement of Children, and independent living services. My office is the licensing agent for all public and private child-serving agencies in Ohio that have the authority to recommend foster parent certification, recertification, denials and revocations. My office sets the foster parent licensing policies and procedures for public and private agencies, and ODJFS issues the foster parent licenses based on local agency recommendations. ODJFS conducts regular reviews of the local agencies' compliance with these licensing standards and provides ongoing technical assistance.

Like other states, Ohio's foster care licensing process has advanced over many years. This advancement is a direct result of our continuous efforts to provide for the safety of children in our custody. Our policies are in place to license qualified individuals who will provide the best care to abused and neglected children until they can return home or achieve another permanent living situation. Ohio's foster care licensing policies are comprehensive. I would like to take this opportunity to highlight some of the important licensing requirements for prospective foster parents.

General Requirements:

- A foster parent applicant must be at least 21 years old.
- At least one person in the home must be able to read, write and speak English, or be able to communicate effectively with both the child and the agency that placed the child in the home.
- The foster parent applicant must have enough income to meet the basic needs of the household and to make timely payment of housing costs.
- The foster parent applicant must be free of any physical, emotional or mental conditions that could endanger the child or seriously impair the foster parent's ability to care for the child.

- A licensed physician, physician's assistant, clinical nurse specialist, certified nurse practitioner or certified nurse-midwife must complete and sign a medical statement for the foster parent and each member of the household.
- Everyone over age 18 living in the house must submit to state and federal criminal background checks, as well as an Ohio alleged perpetrator search through the Statewide Automated Child Welfare Information System, or SACWIS.
- A foster parent applicant must disclose if a person between the ages of 12 and 18 residing in the household has been convicted or plead guilty to certain offenses or adjudicated delinquent.
- A certified state fire safety inspector or the state fire marshal's office must inspect the applicant's home and certify that it is free of hazardous conditions.
- The foster parent applicant must complete all required pre-placement and continuing training.

Along with these requirements, a foster care homestudy must be completed by an agency that is certified to recommend foster homes for certification. A foster care homestudy includes an onsite evaluation of the residence, the prospective foster caregiver and household members. This evaluation of the residence is completed by a licensed agency assessor and takes place physically inside the residence with the foster parent applicant present. Reference checks are conducted with people who are unrelated to the applicant and with all adult children no longer living in the applicant's home, and an evaluation is made of the types of child characteristics that would be most suitable for placement in the applicant's home based on the applicant's strengths and needs and the physical structure of the residence. Some examples of what assessors look for to assess safety are cleanliness of the home; proper storing of poisonous materials; proper heating, lighting and ventilation; safe storing of weapons; adequacy of each child's bedding; and working smoke alarms.

As I mentioned earlier, everyone over age 18 living in the house must submit to state and federal criminal background checks, as well as an alleged perpetrator search through Ohio's SACWIS system. If there are persons living in the residence between the ages of 12 and 18, the foster parent applicant must also report if those individuals have been convicted or pled guilty to certain offenses or adjudicated delinquent. Here are some additional details regarding those requirements.

Background Checks:

- All foster caregiver applicants and all adults age 18 and older living in the home must submit to a state and federal background check prior to becoming licensed and no later than every four years if continuing their license. Criminal background checks are required to be conducted by all Title IV-E agencies per the Code of Federal Regulations (45 CFR 1356.30). Title IV-E of the Social Security Act authorizes the federal foster program which helps to provide safe and stable out-of-home care placements for children through funding some of the costs related to those placements.

- Each applicant is given the criminal records check form prescribed by the Ohio Bureau of Criminal Investigation, or BCI, as well as a BCI standard impression sheet to obtain fingerprints. The sheet may be in a paper format or in an electronic format.
- During each criminal records check, BCI is asked to include any information it has from the Federal Bureau of Investigation.
- If an applicant fails to provide the information necessary to complete the background check, the person will be denied certification as a foster caregiver.
- If an applicant has a felony conviction for spousal abuse, rape, sexual assault or homicide, he or she would be prohibited from becoming a foster parent. This also applies to all adult household members.
- Ohio has a comprehensive list of misdemeanors and felonies that prohibit applicants from becoming licensed unless certain rehabilitation standards are evident.
- Each applicant must submit to an alleged perpetrator search in the SACWIS database to see if the person has a substantiated or indicated report of child abuse or neglect.
- Foster care applicants are required to notify the agency in writing if they have a person between the ages of 12 and 18 living in their home who has committed certain types of criminal offenses or been adjudicated as a delinquent child.
- All foster caregiver applicants, all adults age 18 and older living in the home and the requirement to notify the agency of crimes committed by individuals 12 to 18 years old must be completed or the foster caregiver's application will be denied.

Applicants also must show that their households have enough income to meet the basic needs of a child. Here are more details about that requirement:

Financial Stability:

- All foster applicants must provide proof of income for the household for the most recent tax year prior to the date of application.
- All foster applicants must provide proof of income for the household for a recent two-month period.
- All foster applicants must provide a utility bill for each utility necessary to maintain the household.

Not all foster applicants end up being licensed. Some voluntarily withdraw, and some are denied a license. There are many reasons applicants may withdraw or be denied. For example, there may be disqualifying offenses in their background check, their finances may be unstable, or their living conditions may be unsafe. Some applicants withdraw after going through pre-service training and learning more about the types of abuse foster children may have suffered. They may decide they can't meet these children's special needs.

Although foster care placements are often necessary, Ohio works hard to identify relatives and non-relatives who are familiar to the family as placement options to reduce the trauma that comes with removing children from their parents. Although the kinship homestudy process is not as stringent as the foster parent care homestudy process, child safety is still

the number one priority, and all of the critical pieces still apply. Relatives and non-relatives over 18 years old and living in the home must undergo all the same criminal background checks as foster parent applicants. Their homes also are evaluated, and an assessment is conducted of their ability and willingness to provide care and supervision for the child and to provide a safe and appropriate placement.

Once children are placed with licensed foster families or approved relative/nonrelative families, monthly home visits occur until the child is reunified or permanency is recommended and approved by the court of jurisdiction. Monthly home visits are conducted by a caseworker employed by the agency that holds custody of the child. State policy reinforces this federal requirement to provide for the well-being of all children with open child welfare cases. Visitation data for children in foster care is required to be reported to the federal government for each federal fiscal year, and all states are required to meet or exceed 95 percent of all required visits. If the 95 percent target is not met, there is Title IV-B funding penalty. Title IV-B of the Social Security Act provides funding to states to support a broad range of services designed to support, preserve, and/or reunite children and their families.

The approval process for children who are placed across state lines is defined in the Interstate Compact for the Placement of Children, or ICPC. This is a statutory law in all 50 states and is designed to protect children placed across state lines so that they will be placed in safe, suitable environments and with people or in institutions qualified to care for them. In accordance with Ohio laws and policies, all homestudy and background check requirements outlined earlier must be followed when other states request that children be placed with relatives living in Ohio.

Overseeing the safety of thousands of abused and neglected children is certainly challenging. Ohio appreciates the ongoing technical assistance provided by the Administration of Children and Families' Region 5 office regarding safety, permanency and well-being. We are constantly striving to improve our policies and practices in order to protect Ohio's children. Thank you for the opportunity to provide testimony on this important work. I am happy to answer any questions the subcommittee may have.

Jennifer Justice, Deputy Director

Ohio Department of Job and Family Services

WRITTEN STATEMENT BY

Kimberly Haynes, Director of Children's Services
Lutheran Immigration and Refugee Service
On

"The Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children From Human Trafficking"

Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate

January 28, 2016

Lutheran Immigration and Refugee Service (LIRS)[1] is grateful to Chairman Portman, Ranking Member McCaskill and Members of the Subcommittee for this opportunity to submit the following written testimony.

LIRS is a faith-based organization which has been serving refugees and migrants for over 75-years, including unaccompanied children from all over the world for over 40 years. LIRS believes unaccompanied children, regardless of their status, deserve protection and should be treated according to their best interests. During the recent higher arrivals of unaccompanied child refugee arrivals from Central America since 2012, LIRS has worked alongside the government and with a national network of partners to advocate for appropriate services for these children and youth. These services safeguard unaccompanied migrant children's best interests and recognize their unique vulnerabilities to exploitation and abuse. LIRS looks forward to sharing our recommendations for ways the ORR program can improve their family reunification practices so that incidents of trafficking or other harm may be more readily prevented, identified, or mitigated.

This statement will provide the following information: 1) LIRS's experience of serving unaccompanied children, 2) a historical look at protection provisions for unaccompanied

[1] Lutheran Immigration and Refugee Service (LIRS) is the national organization established by Lutheran churches in the United States to serve uprooted people. LIRS is nationally recognized for its leadership advocating on behalf of refugees, asylum seekers, unaccompanied children, immigrants in detention, families fractured by migration and other vulnerable populations, and for providing services to migrants through over 60 grassroots legal and social service partners across the United States.

children, 3) a review of ORR policy and practices, and 4) LIRS recommendations for improving family reunification practice.

LIRS's Experience Serving Unaccompanied Children

LIRS collaborates with the Office of Refugee Resettlement to provide services mandated under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 and the Homeland Security Act of 2002. These services safeguard unaccompanied migrant children's best interests and recognize their vulnerability to exploitation and abuse. LIRS provides these services through established service networks of community-based agencies with expertise in professional child and family services and in serving immigrant communities.

These services include:

- **Transitional and long-term foster care** for pregnant teen mothers, young children & children without any family in the U.S.
- At our **safe release** sites, sponsor support & family reunification services, which include assisting families in filling out a family reunification packet and complying with background check and fingerprint requirements.
- Suitability assessments that incorporate **home studies** within the home of a potential sponsor, interviews with the sponsor and other adult family member, and interviews with the child. These interviews review background check information, when available; information provided in the sponsor's family reunification packet; and provides a recommendation on the reunification of the child to sponsor to ORR and ORR's Case Coordinator, a service conducted by the subcontractor GDIT.
- Following reunification, LIRS also provides community-based **post-release follow-up services** in accordance with best practice standards of providing flexible, individualized case management services in the community by child welfare professionals. This model of service is also shared by partners at USCCB and USCRI. However, not all of ORR's post-release service providers adhere to these best practices.
- LIRS is also one of two organizations that serve children in the **Unaccompanied Refugee Minor (URM) Program**, which serves children with refugee status, who are resettled from abroad, and former unaccompanied migrant children who have obtained legal status in the United States.

As the only Office of Refugee Resettlement service provider that serves unaccompanied children throughout all stages of care, LIRS is uniquely situated to identify gaps in protection and make recommendations to improve U.S. policies and practices for these children. In addition to our child welfare services for migrant and refugee children, we promote best practices through evidenced-based research. We also bring together experts from a variety of disciplines to develop policy recommendations that adhere to our nations' mandate to care for migrant children and protect them from harm. Our recent report, *At the Crossroads for Unaccompanied Children,*

provides a detailed overview of the care and custody of unaccompanied children and suggests recommendations for the improvement in the care, custody, and processing of children across the federal agencies.[2] The report represents a culmination of best practices gleaned from a series of roundtable discussions with multi-disciplinary practitioners and experts throughout 2014.

A Historical Look at Protection Provisions for Unaccompanied Children

A historical look at the legal protections for unaccompanied children provides an important context to the evolution of child protection policies for this vulnerable population. While important improvements have been made over the past two decades, full child and due process protections have yet to be fully implemented.

Prior to 2008, legal and child protections were provided primarily through the *Flores v. Reno* settlement (*Flores*) agreement of 1997[3] and key provisions in the Homeland Security Act of 2002. The *Flores* litigation came about because the treatment of unaccompanied children by the former U.S. immigration agency, the Immigration Naturalization Service (INS), violated their best interests and due process. Under *Flores*, unaccompanied migrant children became entitled to minimum standards of treatment. Like children in our domestic child welfare system, these migrant children were determined to be entitled to the following:

1. **Detention away from unrelated adults,**
2. **A form of custody other than secure juvenile facilities,**
3. **Humane conditions while in custody,**
4. **A policy favoring release to family members in order to prevent family separation and indefinite detention, and**
5. **Legal protections that included judicial review and access to representation, human rights monitoring, and courts.**

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[2] LIRS published July 2015, available at: http://lirs.org/wp-content/uploads/2015/07/LIRS_RoundtableReport_WEB.pdf

[3] The Flores Settlement Agreement, Case No. CV 85-4544-RJK(Px); Available at: http://tinyurl.com/qagjr8n. Some of the agreement's terms have been codified at 8 CFR §§236.3, 1236.3. (Although it was the Immigration and Naturalization Service (INS) who consented to the agreement, Flores also binds "their agents, employees, contractors, and/or successors in office."3 Therefore, it applies to all those in Department of Homeland Security (DHS) custody—including short-term Customs and Border Protection (CBP) custody and long-term Immigration and Customs Enforcement (ICE) family detention facilities—and those transferred to Office of Refugee Resettlement (ORR) custody).

Following the 1997 *Flores* settlement, the Homeland Security Act of 2002 built upon these protections and created the definition of the "unaccompanied alien child" ("UAC").[4] The Homeland Security Act transferred the authority for care and custody of unaccompanied migrant children from the INS to Department of Health and Human Services—an agency with expertise in the principles of the best interest of the child. Congress rightly recognized the specialized needs of these children by transferring the custodial authority to a child welfare and refugee agency within the Department of Health and Human Services: the Office of Refugee Resettlement (ORR). Conversely, it also ensured that children traveling with parents were not separated from their family members. The Homeland Security Act underscored that the best interest of the child must be also considered whenever an unaccompanied migrant child is in the custody of the government.

Despite these important provisions, the *Flores* and Homeland Security Act framework for child protection remained incomplete. Congress also recognized that unaccompanied children were especially vulnerable to trafficking both in their home countries and in transit, but especially within the United States. As such, Congress added additional provisions to the Trafficking Victims Protection Act (TVPA) regarding unaccompanied children to address their particular vulnerability to trafficking.

LIRS, along with other care providers saw that many unaccompanied migrant children who have survived trafficking were afraid to come forward, or they did not understand that they were victimized and in need of protective services. The children we encountered were often unaware that their mistreatment was illegal or that laws and services existed to protect them. With the William Wilberforce Trafficking Victims Reauthorization Act of 2008, Congress intended to better identify trafficking survivors, disrupt cross-border trafficking, provide services to children while in the custody of ORR, identify those children in need of protection, provide safety screening of potential sponsors, and safely reunify them with family as they pursue their legal relief claim in immigration court.

Specifically the TVPRA:

1. **Requires all potential sponsors to have an identity verification and assessment for potential risk to the child through background checks.**

2. **For especially vulnerable children—who survived trafficking, child abuse or have other special needs as defined under the Americans with Disability Act of 1990 (ADA)[5]—safe release to a sponsor requires a home study and post-release follow-up**

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[4] Homeland Security Act of 2002, Public Law 107–296. 107th Congress, codified at 8 U.S.C.§ 1232 *et al.*
[5] Pub. L. 101–336, *codified at* 42 U.S.C. § 12102

services for the duration of child's immigration case or until such child turns 18 years of age.

3. **Permits, but does not require, ORR to provide post-release services for children to better integrate into their homes and communities.**

4. **Allows, but does not require, ORR to appoint child advocates for trafficking victims or particularly vulnerable children.**

While the TVPRA did establish important child protection and due process protections, the TVPRA did not provide all the protections that child welfare experts believed to be critical to a child's protection. In particular, unaccompanied children, unlike children in the child welfare context, still lack the guarantee of legal representation or advocates who work on behalf of their best interests. Additionally, the protection scheme to ensure the child is safely reunified with family members and receives the services necessary for support and community integration have proven to be insufficient in practice. Today, there is no regulatory framework outlining the requirements ORR should meet in order to comply with all of its obligations under the *Flores* Settlement Agreement, the Homeland Security Act of 2008, and the TVPRA. Over the years, ORR has continually revised and expanded its depth of knowledge and practice in serving this unique population. Yet, with funding constraints and increases in the number of children fleeing Central America, ORR has also been forced to make hard choices about family reunification procedures that do not protect children while safeguarding their rights to family unity.

A Review of ORR Policy & Practice: Family Reunification

The following outlines ORR's family reunification practices and provides recommendations for ways they could be strengthened to better protect and care for children.

Screening of Children for Protection Concerns in ORR Custody

Once a child is transferred to ORR custody, a licensed, bi-lingual clinician conducts a detailed screening and full psychosocial evaluation. This includes an assessment for a variety of issues, concerns and challenges, as well as any potential asylum claim and trafficking indicators. Trafficking screening can be incredibly challenging as many children do not realize that they were with traffickers during their journey. For instance, it is not uncommon for a girl to believe that she was brought to the United States by her adult boyfriend to get married, when in fact he is trafficking her into prostitution. The vulnerability of children and their often incomplete understanding of the situation require ORR staff, legal representatives and social service providers to develop highly advanced skills for interviewing children and asking appropriate and detailed questions to uncover trafficking situations.

Regardless of whether trafficking indicators are uncovered while the child is in ORR custody, there may be no guarantee that trafficking will not occur once they are released. This is one reason why LIRS and other service providers have long advocated that full background checks (including Federal Bureau of Investigation (FBI) and Children Abuse/Neglect (CA/N) checks) are performed for *all* sponsors and that post-release case management services, as described above, be provided to *all* children upon release. Currently only a small percentage of unaccompanied children receive post-release social services. In Fiscal Year 2014, ORR reunified 60% of unaccompanied children with parents and 30% with other family members, with as many as 53,518 placed in homes while children's removal cases proceeded. Yet ORR was only able to provide home studies for 1,434 children (or 2.5%), and post-release services to 3,989 children (or 7%).[6]

Also upon placement in ORR custody, children receive full medical check-ups, vaccinations, counseling and ORR begins the process of family reunification or placement with a suitable sponsor or foster care environment. To remain in compliance with the Prison Rape Elimination Act (PREA), children are given an orientation on how to prevent, detect and respond to sexual abuse or harassment. Children must also receive information on how to report potential abuse to ORR by using the ORR hotline.

Verification of Sponsor Identity

First Step: Family Reunification Packet

As part of the family reunification process, ORR requires the completion of a family reunification packet. Sponsors are required to provide photo identification, a copy of their own birth certificate, a copy of the child's birth certificate and documents to prove the child's relationship to the sponsor. If the sponsor is not a child's parent or legal guardian, then that person must submit a proof of address. Unfortunately, in the past, traffickers have provided fraudulent documents to sponsor children despite the efforts ORR has made to verify the identity of anyone claiming a familial relationship. This is why LIRS and other organizations believe that, as noted below, background checks should be performed for every sponsor, even when a familial relationship is claimed.

In 2014, ORR helped expedite the reunification process by allowing parents to complete the family reunification packet over the phone, so long as they provided copies of the other supporting documents. LIRS believed this posed a significant harm to children and urged families to use LIRS safe release support sites.

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[6] Molly Hennessy-Fiske, "Young Immigrants Placed in Sponsor Homes are at Risk of Abuse, Experts Say," LATimes August 18, 2015, available at: http://www.latimes.com/nation/la-na-immigrant-sponsors-20150818-story.html

Second Step: Sponsor Background Checks

ORR uses a range of background checks to determine if a child would be at risk under the care of a sponsor. In some cases ORR may conduct screening of other adult household members. Among these checks are:

- A **public records check** to determine if the individual has a criminal history;
- An **immigration status check through the Central Index System (CIS)** to determine if an individual has immigration proceedings that could lead to their removal from the U.S. or other immigration status concern that could impact the stability of the child's placement;
- A **national FBI criminal history (digital fingerprint)** check to determine if the individual has a criminal history; ***or*** an **FBI identification index** used in lieu of a FBI criminal history check when fingerprints cannot be obtained; and
- A **Child Abuse/Neglect check (CA/N check)** to determine if there is a history of child abuse or neglect, and a state criminal history repository check to determine if there are further criminal offenses. These checks are done in every state where the sponsor has reported that they have lived.

Sponsors do not have to have legal immigration status for a child to be released to them. If sponsors were required to have legal immigration status, many families would be prevented from reunifying, circumventing parental rights and impacting a child's developmental needs and best interests by living with his or her family. Regardless, a child still has to appear for immigration court proceedings and the vast majority of children do show up for their hearings. If they have counsel or post-release case management services, children are even more likely to attend their immigration court hearings.

Below is a chart of the categories of sponsors and the corresponding background checks that are conducted correlating to the risks. (Current policy as of October 2015 update).

SPONSOR TYPE	RISK FACTORS	BACKGROUND CHECK	LENGTH OF TIME FOR CHECK
Category 1 Parents and Legal Guardians **&** **Category 2** Immediate adult relatives such as siblings, aunts, uncles, grandparents, or	**Category 1 & 2** AND **no risk factors** with child or sponsor.	Public Records check on sponsors and any adult household members where special concern	Within 7-15 days depending on the circumstances.
	Category 1 & 2 AND a **documented risk factor**/ TVPRA mandated home study	• Public Records check • Immigration Status check • FBI/fingerprints • Child Abuse/Neglect check (CA/N)—in	• **FBI checks** can take anywhere from **4-5 days** on average (longer in certain circumstances). • **CA/N checks*** can

first cousins		**home study cases**	take anywhere **from 4 weeks to 8 weeks** (depending on state backlog/priorities and sponsor's comprehension of the paperwork. • **Home studies w/ background checks** may take longer depending on backlog with home studies and CA/N checks.
Category 3 Distant relatives and unrelated adults	**All Category 3 sponsors,** including documented risk factor with child or sponsor/ TVPRA-mandated Home Study/Home Study for sponsors of 2 or more children (whether concurrently or in past).	• Public Records check • Immigration Status check • Child Abuse/Neglect check (CA/N) • FBI/fingerprints	

May be waived in certain circumstances, except in the states of NM or LA.

Over the years, ORR has repeatedly changed the requirements for complying with background checks. In early 2014, ORR issued an **expedited release process** that treated category 2 (Immediate adult relatives such as siblings, aunts, uncles, grandparents, or first cousins) and category 3 (distant relatives and unrelated adults) sponsors exactly like category 1 (parents and legal guardians) sponsors. This allowed ORR to forgo certain background checks, including fingerprinting for criminal history and CA/N checks, if there were no apparent risk factors or TVPRA statutory required home study (trafficking, child abuse or neglect, child disability, or sponsor risk to child).

Not requiring certain background checks for some sponsors resulted in a negative finding of "sponsor risk" towards a child due to a lack of information about the sponsor. This ultimately led ORR to conclude that the child's sponsor did not require a home study under the TVPRA and put the child at potential risk for trafficking. Although lacking full safeguards, these new policies do require that sponsors provide documented evidence of their relationship to the child, such as the child's birth certificate or a marriage license to prove a relationship. When the number of children arriving at the border declined at the end of Fiscal Year 2014 and beginning of Fiscal Year 2015, ORR reinstated the more stringent requirements.

ORR further compromised the rigorous release policy to accommodate the high arrivals of UAC in 2014 by permitting children to be released when a child abuse and neglect background check (CA/N check) was still pending. Typically, ORR would wait to obtain the results of a CA/N check before making a release decision as the CA/N checks provided vital information in the assessment of the sponsor's home.

In early 2015, ORR returned to its more stringent CA/N check policy and eventually added a new home study requirement. LIRS supported this policy change; however, it resulted in long

waitlists for CA/N checks from various state child protection agencies. This had the effect of dramatically increasing the lengths of stay in ORR custody for up to 4-8 weeks, causing ORR to change its procedures once again.

By Fall 2015, ORR permitted a procedure for waiving CA/N checks when there was no indication of child abuse or neglect. Rather than waive CA/ N checks at the recommendation of a care provider, LIRS encourages HHS and ORR to find ways to expedite CA/N checks that take into consideration state child welfare demands for CA/N checks for domestic child welfare purposes. Just months later, ORR again revised the CA/N policy to add the requirement that all category 3 sponsors undergo the CA/N check in order to further improve the screening of non-relative sponsors. While this represents an improvement, LIRS believes that CA/N checks should be expanded for category 1 and 2 sponsors as well.

LIRS believes background checks are integral to the safety and protection of children. In LIRS's experience, many cases—even involving parents—include unsafe living arrangements that could have been prevented had a background check been done on the parent. LIRS appreciates the time constraints on ORR, and the need to free up additional bed space when there is an increase in child arrivals. Therefore, LIRS supports increased funding for ORR to ensure background checks are performed and prevent shortcuts to child safety. Additionally, LIRS believes Congress can improve the process by creating new systems, such as a nationalized CA/N check database, so that the burden on both states and HHS to conduct such checks is greatly reduced.

Child and Sponsor Interviews & Home Studies

ORR requires case managers to verify a potential sponsor's identity and relationship to the child before determining whether the individual is an appropriate sponsor. This includes interviewing both the child and the potential sponsor to validate the relationship between the child and the sponsor. During this interview, ORR considers different risk factors to determine if the sponsor is suitable for the child. These risk factors include the sponsor's motivation for sponsoring the child, the wishes of the parent, the child's wishes, the sponsor's understanding of the child's needs, as well as any risk factors or special concerns the unaccompanied child might have. The screening is intended to ensure that children are placed in the safest environment possible and that they are not at risk of being abused or exploited under the sponsor's care.

During the family reunification process, a small percentage of children are required under the TVPRA to have a home study. These children include those who are victims of severe trafficking, children with special needs or disabilities (as defined by ADA), children who have been victims of physical or sexual abuse and sponsors who present a risk of abuse, maltreatment, exploitation or trafficking. In 2015, ORR changed its policies and now requires home studies before releasing **any** child to a non-relative sponsor who is seeking to sponsor multiple children or who is looking to sponsor an additional child (following a previous child reunification). Still, even with these increases in home studies, the vast majority of children are placed in homes that

have not been fully screened. Historically, ORR used to require home studies for other high risk cases. For example home studies were required for all Chinese or Indian children because ORR noticed a trend of higher incidents of trafficking by sponsors among these populations. ORR found that by doing a home study, it could better screen the family and better ensure children were not being exploited. ORR has since revised their policy so this is no longer required. LIRS believes these populations are still in need of home studies due to trafficking concerns specific to these populations.

Release from ORR

With the first increase in unaccompanied child arrivals in Fiscal Year 2012, ORR instituted a new policy that sought to speed up the reunification timeframe and thereby free up bed space for children who were awaiting transfer from crowded Customs and Border Protection stations. ORR required care providers to strive towards the following timeframes for reunification:

- Category 1 (parents and legal guardians): 10 days
- Category 2 (close adult relatives): 14 days
- Category 3 (distant relatives or family friend): 21 days.

To date, ORR still has these timeframes for reunification as goals, although they prove unrealistic in practice. At times, ORR also institutes a weekly, target reunification goal. Currently, ORR has stated that care providers should try and reunify eligible children at a rate of 25% of the total population within each shelter facility. This puts a burden on care providers, who may feel a contractual obligation to expedite family reunification and under-represent the protection needs of the child. While ORR policy clearly states that the child's protection needs should not be overlooked in sponsor assessments, care providers may feel the need to balance the fiscal and bed placement demands with a risk assessment of the sponsor.

Post-Release Follow-Up Services

The TVPRA only mandates post-release services for children who receive a home study. In addition, ORR provides follow-up services to a small number of children who are deemed by ORR to be especially vulnerable or in need of extra follow-up services. ORR partners with organizations, like LIRS, to provide these services. Not only do post-release services provide critical social services to children, these services also help link children to counsel, which increases their appearance rate in court.

As previously mentioned, current models vary greatly. Some are referral-only based, with fly-in case managers who visit from non-locally based service organizations. LIRS has found this approach to be contrary to the best interests of the child and to undermine not only the child's but also the entire family's integration and support. LIRS has found that community-based services are superior and ensure the child's well-being, furthering the entire family's success and community integration.

In an independent study LIRS requested from the University of South Carolina, researchers found that children who receive case-management style post-release services are more likely to comply with the requirement to appear at all immigration court hearings.[7] Through post-release services children benefit from additional information about how to comply with immigration court proceedings, as well as referrals for local legal service providers. In addition to legal orientation, post-release services also help connect children to schools, mental health services, medical providers, and other supports, as well as provide cultural orientation to both the child and the parent.

During 2014, because of the significant numbers of arriving unaccompanied children and no commensurate increase in funding, ORR developed alternative safe release procedures to stretch post-release follow-up services. This included releasing a child with a safety plan or release with a follow-up phone call to ascertain if additional post-release services were needed. While this permitted some type of follow-up, there was no way to be certain of the child's identity, nor was there any guarantee that the child had a private conversation with a social worker. Thus, any assurance the child was in a safe place was suspect. This is one reason why LIRS has advocated that ORR have full funding, including emergency funds, so that when safe release concerns arise ORR can provide the necessary services upon release to ensure safety and community support while also ensuring family unity.

In 2015, ORR expanded other post-release services other than follow-up services to families. They created a child & sponsor support hotline where sponsors or children could call in and ask questions or request post-release case management services. ORR also required post-release follow-up services for all category 3 sponsors and expanded home studies for category 3 sponsors who sponsored more than one unaccompanied child. While in support of this improved policy, LIRS believes all children should receive post-release services.

The following case examples demonstrate the how post-release case management services prevent harm to children and provide additional support to vulnerable children.[8]

Case Examples: Preventing Harm & Providing Community Integration

Case example: Post-release services disrupt labor trafficking situation:
Oscar was abandoned by his parents in Guatemala and decided to make the journey to the United States to reunite with his sister and brother-in-law, with whom he had no previous relationship. Upon arrival in the U.S., Oscar was successfully placed with his family. Almost two years later, however, Oscar disclosed to his social worker that he had been living in a trailer

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[7] Benjamin J. Roth and Breanne L. Grace, "Post-Release: Study Summary and Policy Recommendations," *University of South Carolina College of Social Work*, available at: http://bit.ly/1cpMtvZ
[8] All names and identifying information have been removed to protect the child's confidentiality.

on his brother-in-law's property and was working in his brother-in-law's landscaping business for no pay. After this, Oscar was moved to another sister and brother-in-law's home. This placement also became unstable when they kicked Oscar out of the home.

After this, through the help of the LIRS social worker, Oscar's attorney, and Child Protective Services (CPS), Oscar was successfully connected to a family from a local church, who were granted legal guardianship of Oscar. During this stable time, Oscar completed his interview with USCIS and was approved for legal status.

Case Example: ORR's new hotline leads to protection of young girl:
In **Maria**'s community in El Salvador, a gang member put a gun near Maria's head and shot once, she stated that he told her, "I give you one month for you to leave or I will kill or rape you." She was not harmed when the gun was shot. Gang members then attempted to rape her, but stopped because her screams were so loud. They instead cut her and warned her they would rape her. At 17 years, she fled to the U.S. and was reunified with a sister without any post-release services. However her sister decided to move in with her boyfriend.

Maria called the new ORR hotline, explained that she never lived with her sister, had lived on her brother's couch, but had moved out. She was working in order to pay rent. ORR contacted LIRS Post Release Services and a report was made to CPS, Maria was placed in CPS custody and placed into foster care.

Case example: Post-release services lead to critical case management services:
Luna was released from ORR custody to a family member. Because Luna was having trouble getting along with this family member, she ran away from her sponsor's home and started living with an adult male, her "boyfriend." During a post release visit, the caseworker discovered where Luna was living and reported it to the authorities. Trafficking indicators led the caseworker to connect **Luna** to trafficking services with the Polaris Project, an organization that works with trafficking victims. Polaris was able to provide temporary housing for Luna. Because Luna refused to return to the sponsor's home, the caseworkers assisted with getting Luna admitted into a long-term program at a shelter where she is provided education, counseling, medical care, and case management. Reportedly Luna is doing well at this program and plans to remain until she finishes her schooling. Luna also has a pro bono attorney and is believed to be pursuing a U or T visa.

Case Example: LIRS Safe Release caseworkers assist with identifying protection concerns
A 17 year old girl from El Salvador, **Alicia** was found wandering on a beach by a good Samaritan. She was shaken and had with her all of her ORR paperwork, including a cover letter from our Safe Release caseworker. The minor told the good Samaritan that she ran away from her sibling, whom she had been released to a few days earlier. The good Samaritan called the LIRS Safe Release caseworker's number and arranged to bring Alicia to them to discuss the situation and see what could be done.

Alicia said that her sibling told her that she would have to work as a prostitute in order to pay back her sibling for the journey to the US. Because of this Alicia decided to run away. Alicia was distraught because her other sibling had encouraged Alicia to prostitute herself to local gang members in exchange for protection. The LIRS case worker was able to connect Alicia to a local shelter for trafficking victims, and the minor was given shelter and a case manager to work on her case for relief based upon her trafficking report.

Recommendations from Lutheran Immigration and Refugee Service:

- ORR should prioritize child protection and safety in reunification decisions over timelines based on fiscal concerns.
- ORR should revise the sponsor assessment tool and sponsor reunification packet to ensure gathering of relevant information, including an in person risk assessment of the sponsor, a sponsor needs assessment, and a sponsor orientation that accompanies a more user friendly sponsor handbook that promotes children's safety, stability, and well-being.
- ORR should monitor the impact of changes to fingerprint background check requirements and revise policy accordingly.
- ORR should ensure that all children have access to post-release services and Congress should appropriate funds accordingly.
- ORR should require that all children receive at least one home visit to check on the released child's well-being.
- ORR should develop regulations implementing the TVPRA and *Flores* Settlement requirements.
- Congress should provide ORR with contingency funds so that in times of higher arrivals of unaccompanied children or refugees, ORR can adequately provide the bed space and services required.
- Congress and HHS should provide resources for a nationalized child abuse and neglect database system for CA/N checks.

Additional recommendations for CBP, ICE and ORR can be found in LIRS's report *At the Crossroads for Unaccompanied Migrant Children.*[9]

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[9] *Supra* n.2

Conclusion

Thank you for the opportunity to provide you and the Committee with information on LIRS's role in serving unaccompanied migrant children. We believe all children have a right to protection and are best cared for by their families. We look forward to continuing to work with this Committee and the Office of Refugee Resettlement to strengthen child welfare practices during family reunification so that we may better ensure children's long-term stability and well-being.

United States Senate
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
Committee on Homeland Security and Governmental Affairs

Rob Portman, Chairman
Claire McCaskill, Ranking Minority Member

Protecting Unaccompanied Alien Children from Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement

STAFF REPORT

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Protecting Unaccompanied Alien Children from Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement

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I. EXECUTIVE SUMMARY

Each year, tens of thousands of children enter the United States, unaccompanied by their parents or relatives. If taken into U.S. custody, those children are designated "unaccompanied alien children" or "UACs."[1] Congress has tasked the Department of Health and Human Services (HHS) with finding appropriate homes in which to place UACs temporarily, pending the resolution of immigration proceedings. The agency within HHS that performs that function is the Office of Refugee Resettlement (ORR). Through procedures described in this report, HHS attempts to place each UAC with a suitable adult sponsor—someone who can care for them and ensure their appearance at their immigration hearings. In carrying out this responsibility, federal law requires HHS to ensure that UACs are protected from human trafficking and other forms of abuse.

Over a period of four months in 2014, however, HHS allegedly placed a number of UACs in the hands of a ring of human traffickers who forced them to work on egg farms in and around Marion, Ohio, leading to a federal criminal indictment. According to the indictment, the minor victims were forced to work six or seven days a week, twelve hours per day.[2] The traffickers repeatedly threatened the victims and their families with physical harm, and even death, if they did not work or surrender their entire paychecks.[3] The indictment alleges that the defendants "used a combination of threats, humiliation, deprivation, financial coercion, debt manipulation, and monitoring to create a climate of fear and helplessness that would compel [the victims'] compliance."[4]

Those tragic events prompted the Subcommittee to launch an investigation of HHS's process for screening potential UAC sponsors and other measures to protect UACs from trafficking. The Subcommittee's initial review of the Marion case files revealed information that suggests these terrible crimes were likely preventable. Specifically, the files reveal that, from June through September 2014, HHS placed a number with alleged distant relatives or family friends—including one of the defendants in the criminal case—without taking sufficient steps to ensure that the placements would be safe. HHS failed to run background checks on the adults in the sponsors' households as well as secondary caregivers, failed to visit any of the sponsors' homes; and failed to realize that a group of sponsors was accumulating

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[1] *See* 6 U.S.C. § 279(g)(2) ("The term 'unaccompanied alien child' means a child who—(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom – (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.")
[2] Superseding Indictment ¶¶ 59, 63, 69, 72, 77. 92, *United States v. Castillo-Serrano*, No. 15-cr-0024, ECF No. 28 (N.D. Ohio July 1, 2015) [hereinafter *Indictment*].
[3] *Id.* ¶ 46.
[4] *Id.* ¶ 49.

multiple unrelated children. In August 2014, HHS permitted a sponsor to block a child-welfare case worker from visiting with one of the victims, even after the case worker discovered the child was not living at the address on file with HHS.

The Subcommittee sought to determine whether the Marion placements were caused by a tragic series of missteps or more systemic deficiencies in HHS's UAC placement process. Based on that investigation, the Subcommittee concludes that HHS's policies and procedures are inadequate to protect the children in the agency's care. The Subcommittee's investigation has focused on what HHS calls Category 3 sponsors—those who have no close relation to the child, and therefore resemble foster-care providers or similar temporary custodial arrangements.

Serious deficiencies found by the Subcommittee include:

- **HHS's process for verifying the alleged relationship between a UAC and an individual other than a parent, guardian, or close family member is unreliable and vulnerable to abuse.** In general, HHS accepts the alleged relationship between a Category 3 sponsor and a UAC (*e.g.*, "neighbor from home country") if a person claiming to be the child's family member corroborates it. In a number of cases, however, parents who consented to the placement of their children with certain sponsors were also complicit in the child's smuggling. In the Marion cases, for example, several victims' family members attested to the asserted relationship, but there was a reason: The human traffickers held the deeds to some of the families' homes as collateral for the child's journey to the United States. The sooner the child was released from HHS custody, the sooner they could begin working to repay the debt. Other cases revealed that parents have deceived HHS by claiming that a relationship existed between the sponsor and the UAC when it did not.

- **HHS is unable to detect when a sponsor or group of related sponsors is seeking custody of multiple unrelated children.** The agency could not detect that sponsors in the Marion cases were collecting multiple, unrelated children—a warning sign of a potential trafficking ring that warrants, at a minimum, additional scrutiny.

- **HHS has failed to conduct adequate background checks.** Throughout the time period examined by the Subcommittee, HHS did not conduct background checks on all relevant adults. HHS's longstanding policy was to conduct background checks only on the sponsor, and not on any other adult listed as living in the sponsor's home or on the person designated as the "backup" sponsor. And if that check turned up a criminal history, HHS policy was that *no* criminal conviction could disqualify a sponsor, no matter how serious. Effective January 25, 2016, HHS has strengthened its background check policies.

- **HHS does not adequately conduct home studies.** Home studies are universally performed in foster care placements, but the HHS agency commonly places children with sponsors without ever meeting that sponsor in person or setting eyes on the home in which the child will be placed. The agency performed home studies in less than 4.3% of cases from 2013 through 2015. No home studies were conducted in the Marion cases.

- **After a child's release to a sponsor, HHS allows sponsors to refuse post-release services offered to the child—and even to bar contact between the child and an HHS care provider attempting to provide those services.** That policy caused HHS to miss a potential opportunity to uncover the crime perpetrated in the Marion cases when one of the victim's sponsors refused to permit access to the child.

- **Many UACs fail to appear at immigration proceedings.** Ensuring the UAC's appearance at immigration proceedings is a principal task of a UAC's sponsor, and failure to appear at an immigration hearing can have significant adverse consequences for an alien child. Based on Department of Justice data, 40% of completed UAC immigration cases over an 18-month period resulted in an *in absentia* removal order based on the UAC's failure to appear.

These deficiencies in HHS's policies expose UACs to an unacceptable risk of trafficking and other forms of abuse at the hands of their government-approved sponsors. Beyond the Marion case files, the Subcommittee has identified and reviewed 13 other cases involving post-placement trafficking of UACs and 15 additional cases with serious trafficking indicators. The Subcommittee is unable to say, however, with any certainty how many more UACs placed by HHS have been victims of trafficking or other abuses, in part because HHS maintains no regularized means of tracking such cases.

The Subcommittee has also learned that no federal agency accepts responsibility for UACs placed with sponsors other than their parents from the time of placement until the immigration hearing. HHS told the Subcommittee that its longstanding view has been that once a child is transferred to the care of a sponsor, HHS has no further power or responsibility.

II. BACKGROUND

Each year, thousands of UACs enter the United States, unaccompanied by their parents or relatives and are taken into U.S. custody. Congress has tasked the Department of Health and Human Services's Office of Refugee Resettlement (ORR) with finding appropriate homes in which to place UACs temporarily pending the resolution of their immigration proceedings. Through procedures described below,

HHS attempts to place each UAC with a suitable adult sponsor—someone who can care for them and ensure their appearance at their immigration hearings.

Unaccompanied alien children require special care. Their youth, lack of adult supervision, language barriers, and dangerous journey to the United States combine to make UACs a vulnerable population.[5] In the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA),[6] Congress prescribed certain minimum standards of care that HHS must follow when deciding whether to place a UAC in a particular home.[7] The TVPRA is clear that a UAC should never be placed with a sponsor who cannot adequately care for the child.[8] Congress also directed four separate federal agencies to establish policies and programs to protect UACs from human trafficking—the unlawful sale of children for forced labor or sex.[9]

Over a period of four months in 2014, however, HHS placed a number of UACs in the hands of a ring of human traffickers who forced them to work on egg farms in and around Marion, Ohio, leading to a July 2015 federal criminal indictment. According to the indictment, the minor victims were forced to work at egg farms in Marion and other location for six or seven days a week, twelve hours per day.[10] The traffickers repeatedly threatened the victims and their families with physical harm, and even death, if they did not work or surrender their entire paychecks.[11] The indictment alleges that the defendants "used a combination of threats, humiliation, deprivation, financial coercion, debt manipulation, and monitoring to create a climate of fear and helplessness that would compel [the victims'] compliance."[12]

Those tragic events prompted the Subcommittee to launch an investigation of HHS's process for screening potential UAC sponsors and other measures to protect UACs from trafficking. The Subcommittee sought to determine whether the Marion placements were caused by a tragic series of missteps or more systemic deficiencies in HHS's UAC placement process. The Subcommittee reviewed 65 case files of

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[5] *Unaccompanied Children Released to Sponsors by State*, OFFICE OF REFUGEE RESETTLEMENT, http://www.acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors.
[6] Pub. L. No. 110-457, 122 Stat. 5044 (2008).
[7] 8 U.S.C. 1232(c)(3)(A), ("[A]n unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being. Such determination shall, at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child).
[8] *Id.*
[9] *Id.* § 1232(c)(1).

UACs placed by ORR, including 34 UACs whose files contained at least some indication of human trafficking or other neglect or abuse, and a sample set of 28 other UACs placed with sponsors who were not close relatives. Based on that investigation, the Subcommittee concludes that HHS's policies and procedures were inadequate to protect the children in the agency's care.

A. The Ongoing UAC Crisis and Human Trafficking

Since 2014, the United States has experienced a large increase of unaccompanied alien children from Central America at the southern border. The number of UACs apprehended increased from approximately 8,000 in Fiscal Year (FY) 2008 to almost 69,000 in FY2014[13] and 39,970 in FY2015.[14] That influx shows no sign of abating in FY2016: Customs and Border Protection (CBP) apprehended 10,588 UACs from October 1, 2015 through November 30, 2015, more than double the number of UACs apprehended during the same period one year ago.[15] The border surge has also produced a shift in the origin of UACs. Prior to FY2014, most UACs entering the U.S. came from Mexico.[16] But in each year since, the majority of UACs apprehended by the Department of Homeland Security (DHS) have come from El Salvador, Guatemala, and Honduras.

The causes of the surge of UACs are disputed, but all stakeholders, including HHS, agree that one reason UACs come to this country is that they are "brought into the United States by human trafficking rings."[17] According to the State Department's 2015 Trafficking in Persons Report, "[t]he United States is a source, transit, and destination country for men, women, transgender individuals, and children—both U.S. citizens and foreign nationals—subjected to sex trafficking and forced labor."[18] Human trafficking involves transporting or harboring human beings, often for financial gain, through the use of fraud, force, or coercion.[19]

Human trafficking can be confused with human smuggling, which involves the illegal transport of an alien across the border, generally with that person's

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[13] WILLIAM KANDEL & LISA SEGHETTI, CONG. RESEARCH SERV., R43599, UNACCOMPANIED MINOR CHILDREN: AN OVERVIEW (2015), https://fas.org/sgp/crs/homesec/R43599.pdf.

[14] U.S. Border Patrol, *Family Unit and Unaccompanied Alien Children (0-17) Apprehensions FY 15 Compared to FY 14* (2015), https://www.cbp.gov/sites/default/files/documents/BP%20Southwest%20Border%20Family%20Units%20and%20UAC%20Apps%20-%20FY14-FY15.pdf.

[15] *Id.*

[16] *Southwest Border Unaccompanied Alien Children Statistics FY 2016*, U.S. CUSTOMS & BORDER PROTECTION, (2015), http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016.

[17] *Administration for Children and Families, Fact Sheet*, U.S. DEP'T. OF HEALTH & HUM. SERV., https://www.acf.hhs.gov/sites/default/files/orr/unaccompanied_childrens_services_fact_sheet.pdf.

[18] U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JULY 2015, 352, www.state.gov/documents/organization/245365.pdf.

[19] 18 U.S.C. § 1591(a).

consent.[20] According to the State Department, "[t]he vast majority of people who are assisted in illegally entering the United States are smuggled, rather than trafficked."[21] But the two practices are linked in many cases: "Trafficking often includes an element of smuggling, specifically, the illegal crossing of a border. In some cases the victim may believe they are being smuggled, but are really being trafficked, as they are unaware of their fate."[22]

There is evidence that criminal organizations—including Mexican cartels and other transnational gangs—are engaged in both the smuggling and trafficking of children and other victims on the border. In 2014, the Texas Department of Public Safety, in collaboration with other law enforcement and homeland security agencies, produced a State Intelligence Estimate finding that:

> [m]any illegal aliens who are transported by alien smuggling operations into and through Texas are vulnerable to or become victims of trafficking or other crimes, including kidnapping, extortion, assault, sexual assault, forced prostitution and forced labor.[23]

These smuggling operations include "leaders, members, and associates of the Gulf Cartel, Los Zetas, and the Juarez Cartel [that] are involved in human smuggling operations along the Texas-Mexico border."[24]

Because of this longstanding concern, in 2008 Congress directed HHS, along with three other agencies, to establish policies to protect UACs in the United States from human trafficking.[25]

B. Statutory and Legal Framework for Placing Unaccompanied Alien Children with Adult Sponsors

Federal law establishes how UACs must be treated once they are apprehended in the United States. First, an immigration officer at either Customs and Border Protection or Immigration and Customs Enforcement—agencies of the Department of Homeland Security—issues the child a Notice to Appear requiring his appearance at an immigration proceeding. Eventually that Notice to Appear

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[20] U.S. DEP'T OF STATE, HUMAN SMUGGLING AND TRAFFICKING CENTER, FACT SHEET: DISTINCTIONS BETWEEN HUMAN SMUGGLING AND HUMAN TRAFFICKING 2 (2006), http://www.state.gov/documents/organization/90541.pdf.
[21] *Id.*
[22] *Id.*
[23] *Assessing the Threat of Human Trafficking in Texas* 24 (2014), TEX. DEP'T OF PUB. SAFETY, https://www.txdps.state.tx.us/director_staff/media_and_communications/2014/txHumanTraffickingAssessment.pdf.
[24] *Id.*
[25] 8 U.S.C. § 1232(c)(1).

(NTA) will be filed with an immigration court run by the Executive Office for Immigration Review within the Department of Justice (DOJ). The Notice to Appear details the immigration charges against the UAC—typically, "entering without inspection"—and orders him to appear before an immigration judge at a later date. The NTA also explains the consequences of failing to appear at the scheduled hearing, which can be severe.[26]

Under federal law, "the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services."[27] Previously that function was performed by the Immigration and Naturalization Service (INS), but the Homeland Security Act of 2002 transferred it to HHS.[28] As the House Report concerning that Act described them, HHS's inherited duties include:

> coordinating and implementing the law and policy for unaccompanied alien children who come into Federal custody; making placement determinations for all unaccompanied alien children in federal custody; identifying and overseeing the infrastructure and personnel of facilities that house unaccompanied alien children; annually publishing a State-by-State list of professionals or other entities qualified to provide guardian and attorney services; maintaining statistics on unaccompanied alien children; and reuniting unaccompanied alien children with a parent abroad, where appropriate.[29]

Accordingly, after the Notice to Appear has been issued, an eligible unaccompanied alien child will be transferred to the custody of HHS's Office of

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[26] A UAC who does not appear at his or her immigration proceeding may be ordered removed *in absentia*. An immigration judge may order a UAC removed in absentia if DHS "establishes by clear, unequivocal, and convincing evidence" that the individual is removable and that the individual received sufficient written notice of the hearing, including a warning of the consequences for failing to appear. 8 U.S.C. § 1229a(b)(5)(A). *In absentia* orders have serious consequences in that they can serve as a bar to subsequent immigration relief for a period of 10 years if the child thereafter attempts to enter the United States. Therefore, once a final order of removal has been entered against the individual for failure to appear, that individual can be ineligible for cancellation of removal (*see* 8 U.S.C §1229b), voluntary departure (*see* 8 U.S. C. §1229c), adjustment of status to permanent resident (*see* 8 U.S.C. §1225), or adjustment of status of nonimmigrant classification (*see* 8 U.S.C. §1258). However, these bars will only take effect if the individual ordered removed *in absentia* actually leaves the country.

[27] 8 U.S.C. § 1232(b)(1).

[28] *See* Pub. L. No. 107-296, 116 Stat. 2135 (2002); 2 U.S.C. § 279(a) ("There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration laws of the United States with respect to the care of unaccompanied alien children that were vested by statute in, or performed by, the Commissioner of Immigration and Naturalization.").

[29] H. Rep. No. 107-609, 106 (2002).

Refugee Resettlement. Consistent with the general practice in immigration law,[30] UACs normally are not held in detention pending their immigration proceedings. Instead, HHS attempts to find a suitable sponsor with whom they can live—someone who can both safely care for the child and ensure his appearance before the immigration court. Since the beginning of FY2014, HHS has placed almost 90,000 UACs with sponsors in the United States.[31] According to HHS, it places the majority of those UACs with the child's parent or legal guardian.[32]

Congress has prescribed certain minimum standards HHS must follow when evaluating the suitability of a sponsor.[33] The TVPRA provides that HHS may not release an unaccompanied alien child "unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being."[34] HHS must, "at a minimum," verify the proposed "custodian's identity and relationship to the child" and "make an independent finding" that the proposed sponsor "has not engaged in any activity that would indicate a potential risk to the child."[35]

The Act also requires HHS to determine whether a home study—that is, an inspection and evaluation of the physical home in which a child will be placed—is necessary.[36] The statute makes home studies mandatory in certain cases:

> [f]or a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in section 12102 of title 42), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence.[37]

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[30] *See Matter of Patel*, 15 I&N Dec. 666, 666 (1976) ("An alien generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security.")
[31] *Unaccompanied Children Released to Sponsors by State*, OFFICE OF REFUGEE RESETTLEMENT, http://www.acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors.
[32] TED KIM, ACTING CHIEF, ASYLUM DIVISION, U.S. CITIZENSHIP AND IMMIGRATION SERVS., U.S. DEP'T OF HOMELAND SECURITY, *Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children* (May 28, 2013).
[33] Pub. L. No. 110-457, 122 Stat. 5044 (2008).
[34] 8 U.S.C. § 1232(c)(3)(A).
[35] *Id.*
[36] *Id.*; 8 U.S.C. § 1232(c)(3)(B).
[37] *Id.*

And as a matter of its discretion, HHS has established certain additional circumstances when it will conduct a home study.[38]

The TVPRA also requires HHS to "conduct follow-up services, during the pendency of removal proceedings, on children for whom a home study was conducted" and authorizes follow-up services "in cases involving children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency."[39] HHS has expanded the availability of follow-up services to additional categories of UACs as a matter of its discretion.[40]

In addition to relevant statutes, HHS also complies with the terms of a 1997 consent decree, known as the *Flores* Agreement, entered into by the former INS. The *Flores* Agreement established a "general policy favoring release" of UACs whenever "the INS determines that the detention of a minor is not required to secure his or her timely appearance before the INS or the immigration court, or to ensure the minor's safety or that of others."[41] Consistent with that policy, the *Flores* Agreement expanded the entities to whom INS could release children beyond parents, guardians, and close adult relatives, to include "an adult individual or entity designated by the parent or legal guardian as capable and willing to care for the minor's well-being," "a licensed program willing to accept legal custody," or "an adult individual or entity seeking custody . . . when it appears that there is no other likely alternative to long term detention and family reunification does not appear to be a reasonable possibility."[42]

In addition, under the *Flores* Agreement, all custodians are required to sign agreements pledging to provide for the alien child's well-being, notify the local immigration court if the custodian and unaccompanied alien child move, and ensure that the unaccompanied alien child will appear for all immigration proceedings.[43] The *Flores* Agreement then provides that "[t]he INS may terminate the custody arrangements and assume legal custody of any minor whose custodian fails to comply with the agreement."[44] The *Flores* Agreement also granted the government

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[38] *ORR Policy Guide: Children Entering the United States Unaccompanied*, OFFICE OF REFUGEE RESETTLEMENT (Jan. 30, 2015), http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied [hereinafter *ORR Policy Guide*].
[39] 8 U.S.C. § 1232(c)(3)(B).
[40] *ORR Policy Guide*, § 2.4.2.
[41] Stipulated Settlement Agreement ¶ 14, *Flores v. Reno*, No. 85-cv-4544 (C.D. Cal. 1997), [hereinafter "*Flores* Agreement"], https://www.aclu.org/files/pdfs/immigrants/flores_v_meese_agreement.pdf.
[42] *Id.*
[43] *Id.* ¶ 15.
[44] *Id.* ¶ 16.

the authority to hold any unaccompanied alien child who could not be released consistent with the agreement, in a group shelter.[45]

C. The Office of Refugee Resettlement

ORR is an office within HHS's Administration for Children and Families (ACF). ORR's principal function, as its name implies, is the resettlement of refugees who come to live in the United States. But in recent years, the task of finding placements for tens of thousands of UACs annually has become an increasingly important function of the office.

ORR is headed by a Director, who reports to the Assistant Secretary for ACF. In brief, ORR has five divisions: Refugee Assistance, Refugee Health, Resettlement Services, Children's Services, and the Office of the Director. The Office of the Director includes the Budget Division, the Policy Division, and the Repatriation Division.[46]

The Division of Children's Services is responsible for the UAC program, among other duties. According to ORR, the Deputy Director of Children's Services, whom the Subcommittee has interviewed, has been in immediate charge of the program since April 2015.[47] ORR divides the country into five regions for purposes of the UAC program. Each region is headed by a Federal Field Specialist Supervisor who monitors a team of eight to twelve Federal Field Specialists (FFS or Field Specialist).[48] Each Field Specialist is responsible for multiple care providers within its assigned region and "serves as the regional approval authority for unaccompanied alien children transfer and release decisions."[49] UACs are sent to specific regions based on available bed space at a facility that provides the appropriate level of care for the UAC's needs.[50]

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[45] *Id.* ¶ 19.
[46] *See* App. 001.
[47] Interview with Bobbie Gregg, Deputy Director of Children's Services, Office of Refugee Resettlement (Oct. 1, 2015).
[48] The five regions are assigned the following number of Field Specialists: South Texas: 9 FFS; Central Texas: 10 FFS; Northeast: 12 FFS; Southeast: 8 FFS; West: 12 FFS.
[49] *ORR Policy Guide: Children Entering the United States Unaccompanied: Guide to Terms*, OFFICE OF REFUGEE RESETTLEMENT (Jan. 30, 2015), [hereinafter *ORR Guide to Terms*], http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied-guide-to-terms.
[50] *ORR Policy Guide* at § 1.2 ("ORR policies for placing children and youth in its custody into care provider facilities are based on child welfare best practices in order to provide a safe environment and place the child in the least restrictive setting appropriate for the child's needs."), § 1.3.1 ("The care provider may . . . deny ORR's request for placement based on . . . [l]ack of available bed space.").

D. HHS's Child Placement Procedures

HHS's UAC program functions through grants and contracts with a number of private care providers and other third parties who perform daily tasks associated with UAC placement. Those functions include running shelters for children who have not yet been placed with sponsors, identifying and screening potential sponsors, evaluating the homes in which children will be placed, making release recommendations to HHS, and providing post-release services to children.[51] HHS awarded 56 grants to over 30 care providers for the UAC Program in FY2016, including BCFS Health and Human Services, Lutheran Immigration and Refugee Services, the U.S. Conference of Catholic Bishops, the U.S. Committee for Refugees and Immigrants, and Southwest Key.[52] These care providers make recommendations to HHS about UACs' care—recommendations that are also evaluated by General Dynamics Information Technology (GDIT), a HHS contractor who serves as a "case coordinator."[53] But ultimately, an ORR Field Specialist must approve the decision to release a child or to order additional vetting or services discussed below—such as conducting a home study of the sponsor's residence or providing post-release services to a child.[54]

The following describes HHS's placement procedures in greater detail.

1. Evaluate Each Child

Once DHS transfers an unaccompanied alien child to HHS custody, HHS determines at what sort of facility the UAC should be housed. Facilities are operated by private care providers, and include shelters, foster-care or group homes, secure-care facilities, and residential treatment facilities.[55] HHS initially places the UAC in the "least restrictive setting appropriate for the child's needs."[56]

Once a UAC arrives at a care facility, a case manager interviews the child and completes a "UC Assessment."[57] The UC Assessment includes basic information about the child's journey and apprehension, family and significant relationships, medical history, and any potential legal relief for which the child may qualify. It also includes the UAC's criminal history, an evaluation of his mental health and behavior, and any indicators that the child may be a trafficking victim. The case manager also collects initial information about potential sponsors for the

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[51] *Id.*
[52] Documents provided by HHS's Office of the Assistant Secretary for Legislation.
[53] Currently, case coordinators are provided by General Dynamics Information Technology.
[54] *ORR Policy Guide*, § 2.3.1.
[55] *ORR Guide to Terms.*
[56] *Id.* § 1.1.
[57] *ORR Operations Guide: Children Entering the United States Unaccompanied*, OFFICE OF REFUGEE RESETTLEMENT § 3.3.2. [hereinafter *ORR Operations Guide*].

UAC[58] and a legal service provider will meet with the UAC to determine whether the child may qualify for any sort of immigration relief.[59]

During this initial assessment, HHS requires the care provider to take specific steps to determine whether the child has been a victim of human trafficking. HHS's guidance states that "[c]are providers MUST screen all unaccompanied children to determine if they are victims of a severe form of trafficking."[60] In order to make the required determination, the case manager, along with a clinician, asks the UAC questions about who planned or organized his journey, whether any debt was incurred by the UAC or his family as a result of the UAC's journey, and if so, what the terms of payment are. The case manager must also ask whether anyone threatened the UAC or his family over payment for the UAC's journey and whether any payment for the UAC's journey was made in return for a promise to work in the U.S.[61]

If the UAC's responses to questions during the UC Assessment or otherwise indicate that the child may have been a victim of human trafficking, the care provider must notify HHS's Office of Trafficking in Persons (OTIP) within 24 hours, so that OTIP can assess whether the child may be eligible for benefits. That determination can lead to placement in HHS's Unaccompanied Refugee Minors Program, which allows eligible children access to immigration relief as a refugee and leads to permanent settlement in the United States.[62] In cases of trafficking, HHS may also issue the child an Eligibility Letter that grants the UAC access to federal and state benefits such as nutrition programs, medical services, monetary assistance, and financial aid.[63]

2. Identify a Potential Sponsor

After screening a UAC for trafficking indicators, a care provider will begin the process of identifying potential sponsors.[64] To do this, the care provider is

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[58] *ORR Operations Guide*, § 3.2.2.

[59] Legal relief from removal for UACs most commonly includes asylum, special immigrant juvenile status, U-visas for crime victims, and T-visas for trafficking victims.

[60] *ORR Policy Guide*, § 3.3.3. Under federal law, a "severe form of trafficking in persons," means "(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery." 22 U.S.C. § 7102(9).

[61] UC Assessment (copy on file with the Subcommittee).

[62] *Fact Sheet: Victim Assistance*, OFFICE OF REFUGEE RESETTLEMENT, http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-victim-assistance-english.

[63] *Services Available to Minors with Eligibility Letters*, OFFICE ON TRAFFICKING IN PERSONS, http://www.acf.hhs.gov/programs/endtrafficking/services/minors-eligibility-letters.

[64] *ORR Policy Guide* at § 2.2.1 ("The care provider . . . interviews the child as well as parents, . . . legal guardians, and/or family members to identify qualified custodians ('sponsors')."), § 2.2.2 ("The

supposed to "interview[] the child as well as parents, legal guardians, and/or family members to identify qualified custodians [*i.e.*, sponsors]."[65] According to HHS's guidance,

> ORR releases children to a sponsor in the following order of preference: parent, legal guardian, adult relative (brother, sister, aunt, uncle, grandparent or first cousin), adult individual or entity designated by the parent or legal guardian (through a signed declaration or other document that ORR determines is sufficient to establish the signatory's parental/guardian relationship), licensed program willing to accept legal custody, or adult individual or entity seeking custody when it appears that there is no other likely alternative to long term ORR care and custody.[66]

HHS created four categories to classify potential sponsors in order to help guide release decisions.

- *Category 1:* Parents, legal guardians, and stepparents that have legal or joint custody of the UAC.
- *Category 2:* Immediate relatives of the UAC, such as brothers, sisters, aunts, uncles, grandparents, and first cousins.
- *Category 3:* Distant relatives or unrelated individuals. Much of the Subcommittee's investigation has focused on Category 3 sponsors—those that have no close relation to the child, and therefore resemble foster-care providers or similar temporary custodial arrangements.
- *Category 4:* Cases in which a UAC has no identified sponsor.[67]

Once the care provider identifies a potential sponsor, it begins the sponsor-assessment process. ORR's online Policy Guide explains that ORR considers a number of factors when evaluating potential sponsors, including the nature and extent of the sponsor's relationship with the UAC, if a relationship exists; the sponsor's motivation for wanting to sponsor the UAC; the UAC's view on the release to the identified individual; and the sponsor's plan to care for the UAC.[68]

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child's care provider is responsible for implementing safe screen methods when contacting and communication with potential sponsors.").

[65] *Id.* § 2.2.1.

[66] *Id.*

[67] *Id.*

[68] *Id.* § 2.4.1 Assessment Criteria. Additional criteria include the unaccompanied child's parent or legal guardian's perspective on the release to the identified potential sponsor; the sponsor's understanding of the unaccompanied child's needs, as identified by HHS and the care provider; the

Care providers gather information about sponsors in a number of ways. *First*, HHS maintains a case management database, called the "UAC Portal," used by HHS and its care providers to collect, maintain, and share information on UACs. For each UAC placement, HHS care providers update the Portal with the UAC's name, alien number, medical history, and education, the UAC's intake questionnaire, and information regarding the UAC's potential sponsors and ultimate discharge from HHS. They may also upload relevant documents. At the beginning of any new sponsor assessment, the care provider must search the UAC Portal for the sponsor's name and address to determine if there is any existing information about the sponsor already in HHS records and to find out if the sponsor's address has been used before by a different person.[69]

Second, the care provider must interview the potential sponsor as soon as possible. During the interview, the care provider must assess the sponsor's strengths, resources, and special concerns.[70] HHS supplies suggested questions for the care provider to use when interviewing the sponsor,[71] but also instructs them to use their best judgment to determine the phrasing of questions and whether additional questions are necessary.[72] The care provider is required to note the results of the interview in the UAC's case file.[73]

During the interview, the care provider determines if the UAC and the sponsor know each other. If they do not know each other, the care provider is required to consult with the HHS-contracted Case Coordinator who must get approval from the ORR Field Specialist before the placement can move forward.[74]

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sponsor's understanding of the importance of ensuring the unaccompanied child's presence at all future hearings or proceedings, including immigration court proceedings; the linguistic and cultural background of the child or youth and the sponsor, including cultural, social, and communal norms and practices for the care of children; the sponsor's strengths, resources, and mitigating factors in relation to any risks or special concerns of the child or sponsor, such as a criminal background, history of substance abuse, mental health issues, or domestic violence and child welfare concerns; and the unaccompanied child's current functioning and strengths in relation to any risk factors or special concerns, such as children or youth who are victims of human trafficking, are a parent or are pregnant, have special needs, disabilities, or other medical or mental health issues, have a history of criminal, juvenile justice, or gang involvement, or a history of behavioral issues.

[69] The Portal has existed since January 2014, and although it was immediately searchable for names and addresses, it did not include any previous data or records. In January 2014, data in the Portal was limited to information about UACs that were in HHS's care at the time. Even now, the Portal contains very limited amount of information about sponsors or potential sponsors for UACs released from HHS custody prior to January 2014. Interview with Anna Marie Bena, Director, Division of Policy, Office of Refugee Resettlement (Jan. 19, 2016).

[70] *ORR Operations Guide*, § 2.2.3.

[71] *Id.*

[72] *Id.*

[73] *Id.*

[74] *Id.*

The care provider also should interview the UAC's parent, legal guardian, or other family members to determine the commitment of the potential sponsor to care for the UAC and to corroborate that a relationship exists between the UAC and the sponsor. The Operations Guide notes that the care provider "should also assess the type of relationship that exists between the UAC and the sponsor, especially if a Category 3 sponsor."[75]

Third, the sponsor is asked to fill out a two-page form called the Family Reunification Application. This form asks the sponsor for his name, date of birth, country of origin, contact information, and relationship to the minor.[76] The sponsor is supposed to list the occupants of his household, along with each occupant's name, age, relationship to the sponsor, and relationship to the minor.[77] The sponsor is then required to explain how he plans to support the minor financially. Typically, a sponsor will list his job and income. The application also asks the sponsor to disclose whether the sponsor, or any person in the sponsor's household has ever been charged or convicted of a crime or investigated for the physical abuse, sexual abuse, neglect or abandonment of a minor. Finally, the application asks the sponsor to list the name and contact information of the individual who will supervise the UAC in the event the sponsor needs to leave the country or becomes unable to care for the UAC. The sponsor must submit the completed application to HHS within seven days of receiving it. The care provider uses the information provided in the application, along with information provided in the care provider's interview with the sponsor, to assess the sponsor's suitability to care for the UAC.[78]

Fourth, along with the application, HHS requires the sponsor to provide supporting documentation, including proof of the sponsor's identity, address, and relationship with the UAC.[79] HHS previously required the sponsor to provide proof of income, but abolished that requirement in April 2014.[80]

Proof of the sponsor's identity can take a number of forms. HHS requires the sponsor to submit at least one form of government-issued photo identification, such as a state-issued driver's license or identification card, identification document issued by a governmental entity in the sponsor's country of origin, or a passport, as well as a copy of the sponsor's birth certificate. Some of the case files viewed by the Subcommittee included an alias check along with the internet background check,

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[75] *Id.*
[76] *Id.*
[77] On January 25, 2016, HHS revised its Family Reunification Application to require sponsors to provide the date of birth of household members and contact and biographic information of backup sponsors in order for HHS to perform public records checks and sex offender registry checks on those individuals.
[78] *ORR Operations Guide* § 2.2.3.
[79] *ORR Policy Guide* at § 2.2.4.
[80] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).

but most did not. HHS does not require a care provider to search for whether a sponsor has ever used an alias.[81]

HHS requires different documents to prove the relationship between the sponsor and the UAC depending on the closeness of the alleged relationship. A parent attempting to sponsor a UAC must provide the UAC's birth certificate to verify the relationship. A legal guardian must submit a copy of the court guardianship order. "Other related sponsors" who qualify as Category 2 must submit "a trail of birth certificates, marriage certificates, and/or any other relevant documents" that can prove the relationship.[82]

Establishing the relationship between a UAC and a Category 3 sponsor involves a case-by-case approach. According to the ORR Policy Guide,

> Category 3 sponsors who may have a distant relationship with the youth but not supporting documentation of it or who have no relationship with the youth must submit an explanation of their relationship with the unaccompanied child or the child's family. Care providers should confirm the relationship with the unaccompanied child and the child's family, if possible.[83]

Care providers typically speak to the UAC's family on the telephone to confirm the relationship between the sponsor and the UAC or the UAC's family, relying on the UAC's family to corroborate the sponsor's story. The ORR Operations Guide states that Category 3 sponsors must also provide a Letter of Designation for Care of a Minor, which the UAC's parent or legal guardian completes.[84]

3. Conduct Background Checks

After identifying a potential sponsor for the UAC, the care provider reviews the potential sponsor's application and performs a background check.[85] HHS's guidance creates a complex matrix that determines the type of background check required in a given case. Essentially, the less close the relationship between the potential sponsor and the unaccompanied alien child, the more comprehensive the background check.[86] Depending on the circumstances, the process may involve a public records check for criminal history, an immigration status check, a FBI fingerprint check, and/or a child abuse and neglect check.[87]

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[81] *See Generally ORR Policy Guide* §2.5.1.
[82] *ORR Operations Guide* § 2.2.3.
[83] *ORR Policy Guide* § 2.2.4
[84] *ORR Operations Guide*, § 2.2.3.
[85] *ORR Policy Guide* § 2.5.
[86] *See* App. 089-090.
[87] *Id.* Effective January 25, 2016, this process may also involve a sex offender registry check.

Before January 25, 2016 (three days before this report issued) background checks were authorized to be performed *only* on the sponsor himself—not on other adults that will live with the child or on those listed as alternative caregivers, except in certain circumstances.[88] The Subcommittee asked for but received no explanation for this practice.

For placements with distant relatives or unrelated individuals, HHS is supposed to take the following steps:

- Complete a public-records search to determine whether the potential sponsor has been arrested, convicted, or has pending charges.
- Search CIS to determine the potential sponsor's immigration status. Search an FBI database to perform a criminal history check based on the sponsor's fingerprints.
- Search a separate FBI database to perform a criminal history check based on the sponsor's name and description.
- Search state and local data to perform an additional criminal history check, if necessary.
- Complete a Child Abuse and Neglect Check, using data obtained from states.[89]

a. Public Records Check

At a minimum, all sponsors must undergo a public records check. This check identifies an individual's arrests and convictions.[90] A care provider may also run a state and local criminal history check on a case-by-case basis.[91] If a check reveals a criminal record or safety issue, the care provider is required to evaluate a potential sponsor's ability to provide for a child's physical and mental well-being.[92] Other adults living with a sponsor undergo a public records check if "a special concern is identified" or if a home study is conducted.[93] A care provider may also run state and local criminal history checks to assist with the release decision.[94] Depending on

[88] *ORR Operations Guide* § 2.2.4.
[89] *ORR Policy Guide* § 2.5.1 ("Depending on the circumstances, this process may involve background checks on criminal history, child abuse/neglect checks (CA/N), and immigration background checks for the sponsor and, if applicable, adult household members.").
[90] *Id.*
[91] *Id.*
[92] *Id.*
[93] *Id.* Effective January 25, 2016, all non-sponsor adult household members and adult care givers identified in a sponsor care plan are required to undergo public registry checks as well as sex offender registry checks.
[94] *Id.*

the sponsor's category and other extenuating factors, additional background checks are required as specified below.

b. Immigration Status Checks and FBI Fingerprint Checks

Under certain circumstances, sponsors or other adult household members may also be required to undergo an immigration status check and an FBI fingerprint check. Immigration status checks are conducted through DHS's Central Index System (CIS)—a database of information on the status of noncitizens seeking immigration benefits. CIS provides information about immigration-court actions, orders of removal, and other immigration statuses.[95] HHS does not disqualify potential sponsors because of immigration status. Instead, if a potential sponsor is not legally present in the United States, HHS requires the sponsor to develop a "safety plan" or "Plan of Care" for the UAC that ensures the child will remain in the custody of a responsible adult if the sponsor is removed or leaves the country.[96] Care providers use the hotline maintained by the Department of Justice's Executive Office for Immigration Review as a follow-up to the CIS check for the latest immigration-court information.[97]

An FBI fingerprint check is used to determine if an individual has a criminal history or has been convicted of a sex crime or other offense that compromises the sponsor's ability to care for a child.[98] If the individual's fingerprints are unreadable, HHS may search for his name in the FBI's criminal history record files (called the "FBI Interstate Identification Index (FBI III)").[99]

Care providers are required to run both an immigration status check and an FBI fingerprint check on all Category 2 and 3 sponsors.[100] Category 1 sponsors and adult household members are exempt from these checks unless there is a documented risk to the safety of the UAC, the UAC is especially vulnerable, and/or the case is being referred for a mandatory home study.[101]

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[95] *Id.*
[96] *Id.* This report refers to that individual as a "backup sponsor."
[97] *Id.*
[98] *ORR Policy Guide* § 2.5.1.
[99] *Id.*
[100] *Id.*
[101] *Id.* Effective January 25, 2016, non-sponsor adult household members and adult care givers identified in a sponsor care plan are required to undergo an immigration status check and FBI fingerprint check where a public records check reveals possible disqualifying factors under Section 2.7.4 of the *ORR Policy Guide*.

c. Child Abuse and Neglect Check

Child abuse and neglect checks are run on all Category 3 sponsors. They are run on Category 1 and 2 sponsors only when there is a special concern, the UAC is especially vulnerable, and/or if the case is being referred for a mandatory home study.[102] HHS runs child abuse and neglect checks on other adults living with a sponsor when "a special concern is identified."[103]

Because there is no national repository of information against which to run a check for information on child abuse and neglect, such reviews are run on a state-by-state basis.[104] A child abuse and neglect check is run for all localities in which the individual has resided for the past five years.[105] HHS may waive the requirement that the results of a child abuse and neglect check be obtained prior to making a release decision, if all other documentation needed to approve a safe release has been received and reviewed by the case manager.[106]

4. Consider Conducting a Study of the Sponsor's Home

Under some circumstances, HHS will order the care provider to conduct a home study—*i.e.*, "an in-depth investigation of the potential sponsor's ability to ensure the child's safety and well-being."[107] Home studies are normally performed by a specialized provider and typically consist of an interview with the UAC, an interview with the potential sponsor, and an interview with any other individuals residing with the potential sponsor.[108] Home studies also include assessments of the potential sponsor's neighborhood and of the potential sponsor's home (including a determination regarding where a UAC will sleep, whether there is running water, electricity, food readily available, and any visible weapon or illegal substances in the home).[109]

Unlike state foster-care systems, HHS does not conduct home studies for all prospective sponsors—even Category 3 sponsors. Instead, HHS authorizes home studies in circumstances where the TVPRA mandates them and in a few other discrete categories.

The TVPRA makes home studies mandatory in four situations:

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[102] *Id.*
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] *Id.*
[107] *Id.*; *see ORR Guide to Terms.*
[108] *ORR Guide to Terms.*
[109] Interview with Southwest Key (Sept. 21, 2015).

1) The UAC is identified as a victim of a severe form of trafficking in persons (a UAC does not need an Eligibility Letter from HHS to qualify for home study);

2) The UAC is a special needs child with a disability as defined in section 3 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12102(1);

3) The UAC has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened; or

4) The UAC's sponsor clearly presents a risk of abuse, maltreatment, exploitation or trafficking, to the child based on all available objective evidence.[110]

In addition, HHS policy requires home studies in two other circumstances. Under a pilot program announced by HHS on July 1, 2015, home studies are now required for all UACs 12 years of age and under who are to be placed with a Category 3 sponsor.[111] And on July 27, 2015, HHS began requiring a home study if the proposed sponsor is a non-relative who is seeking to sponsor multiple children or has previously sponsored a child and is seeking to sponsor additional children.[112]

If a case meets any of the criteria described above, the care provider makes a recommendation to perform a home study in the request for release of the UAC. That recommendation is then reviewed by the third-party case coordinator and the Field Specialist. The Field Specialist ultimately decides whether to conduct a home study before a final release decision can be made.[113]

5. Make a Release Recommendation

Once the care provider has reviewed the Family Reunification Application and supporting documentation and spoken to the necessary individuals, it makes a release recommendation to the third-party case coordinator.[114] The case coordinator provides an independent review of the case and makes a recommendation to HHS based on information in the UAC's case file.[115] Case coordinators meet with care providers on a weekly basis to get status updates on

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[110] 8 U.S.C. § 1232(c)(3)(B).
[111] App. 238.
[112] *See id.* ("HHS also requires a mandatory home study before releasing any child to a non-relative sponsor who is seeking to sponsor multiple children, or previously sponsored a child and is seeking to sponsor additional children.").
[113] *ORR Policy Guide* §2.7.
[114] General Dynamics Information Technology is the current contractor for the provision of case coordination services.
[115] *ORR Operations Guide* § 2.3.4.

active cases. In complex cases, the case coordinator may interview the UAC, but is prohibited from contacting the UAC's family or the sponsor directly.[116]

Prior to December 1, 2015, case coordinators used a "Third Party Review" form to provide a summary of the case to the Field Specialist and to make a release recommendation. On December 1, however, HHS cut the time in which a case coordinator must conduct its review from three days to one day. This new guidance also instructs case coordinators to summarize their release recommendation in one paragraph for entry into the UAC Portal instead of using the longer, more detailed form.[117]

After the case coordinator's recommendation is received, the Field Specialist, using assessment criteria specified in HHS's guidance, has 24 hours to act on the caregiver's recommendation.[118] If the care provider recommends release, the Field Specialist has several options: approve the release; approve the release provided the sponsor agrees to post-release services; remand so that the care provider may consider additional evidence; deny the release; or order a home study.[119]

6. Release of the UAC from HHS Custody

Once release is approved by the Field Specialist, the sponsor is required to sign a document agreeing to notify the immigration court of any changes to the unaccompanied alien child's address within five days;[120] to provide for the physical and mental well-being of the child[121], to ensure that the unaccompanied alien child reports for removal proceedings;[122] and to notify the National Center for Missing and Exploited Children if the child disappears, is kidnapped, or runs away.[123]

Sponsors also agree to attend legal orientation programs that impress upon them the importance of ensuring the UAC's appearance at all immigration hearings and court proceedings. The TVPRA requires that HHS and DOJ "cooperate" to

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[116] Interview with General Dynamics Information Technology (Jan.15, 2015).
[117] *Id.*
[118] *ORR Policy Guide* §§ 2.7.1-2.7.5 (outlining criteria for a Federal Field Specialist's decision).
[119] *See id.* § 2.7 ("The ORR/FFS will make one of the following release decisions: Approve release to sponsor; Approve release with post-release services; Conduct a home study before a final release decision can be made; Deny release; Remand.").
[120] *See id.* § 2.8.1 ("Depending on where the unaccompanied child's immigration case is pending, notify the local Immigration Court or the Board of Immigration Appeals within 5 days of any change of address or phone number of the child.... [and i]f applicable, file a Change of Venue motion on the child's behalf.").
[121] *See id.* (sponsor must agree to "[p]rovide for the physical and mental well-being of the child, including but not limited to, food, shelter, clothing, education, medical care and other services as needed").
[122] *See id.* (sponsor must "[e]nsure the unaccompanied child's presence at all future proceedings before the DHS/Immigration and Customs Enforcement (ICE) and the DOJ/EOIR.")
[123] *See id.* (sponsor must "[n]otify the National Center for Missing and Exploited Children").

"ensure that custodians receive legal orientation programs."[124] Despite this mandate, ORR's Operations Guide states only that the care provider must "explain[] the benefits" of "voluntarily" attending a legal orientation program for custodians of UACs, which is administered by DOJ's Executive Office for Immigration Review.[125] The care provider can schedule an appointment for a sponsor to attend a legal orientation program in person or an information packet can be mailed to the sponsor.

Once the sponsor signs the agreement and HHS has approved the transfer of the UAC to the sponsor, the care provider informs DHS so that it can comment on the release.[126] The care provider then transfers the child to the custody of the sponsor.[127] Prior to August 2015, the care provider closed the child's file within 24 hours of physical discharge of the child from HHS custody.[128] Under new rules, care providers keep the child's file open for an additional 30 days so that they can conduct a follow-up phone call with the child and the sponsor.[129]

After HHS releases a UAC to a sponsor, the UAC and sponsor have two ways to contact HHS in the event they need some sort of assistance—a "Help Line" and a sexual abuse hotline, both operated by contractors. The Help Line was originally called the Parent Hotline and was used primarily by parents trying to locate their children. However, in May 2015, HHS expanded its purpose to accept calls from UACs or their sponsors seeking assistance with post-release concerns and renamed it the Help Line.[130] HHS provides UACs with the number to the Help Line prior to releasing them from HHS custody.[131] The sexual abuse hotline was established in the summer of 2015, pursuant to the Violence Against Women Act of 2013,[132] and is used primarily by children calling to report abuse that may fall under the Prison Rape Elimination Act of 2003.[133]

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[124] 8 U.S.C. § 1232(c)(4). Furthermore, "at a minimum, such presentations shall address the custodian's responsibility to attempt to ensure the child's appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking." *Id.*
[125] *ORR Operations Guide* § 2.1.3.
[126] *Id.* § 2.8.2 ("The care provider notifies the DHS prior to the physical release to allow DHS an opportunity to comment on the imminent release as well as time to prepare any DHS paperwork for the ICE Chief Counsel's office.").
[127] *Id.*
[128] *ORR Policy Guide* § 2.8.
[129] *See id.* ("Although the custodial relationship ends, the care provider keeps the case file open for 30 days after the release date so that the provider can conduct the Safety and Well Being Follow Up Call and can document the results of the call in the case file."); *see also id.* § 2.8.4 (outlining the Safety and Well Being Follow Up Call).
[130] Documents on file with the Subcommittee.
[131] App. 240.
[132] Pub. L. No. 113-4, 127 Stat. 54 (2013).
[133] Pub. L. No. 108-79, 117 Stat. 972 (2003).

7. HHS's Policies Concerning Post-Release Services to the Child and the Sponsor's Right to Refuse Them

In certain cases, UACs are eligible to receive post-release services from HHS through its care providers. These services usually consist of home visits and the identification of community resources such as educational support, legal assistance, and mental health services.[134] A care provider that is in close proximity to the sponsor's home provides post-release services. For children who received home studies prior to release, post-release services last for the duration of their removal proceedings or until they reach age 18, whichever comes first.[135] For non-home study cases, post-release services are provided for six months but may be extended.[136]

As with home studies, HHS is statutorily required to offer post-release services in certain cases, and as a matter of its discretion has extended them to a few other categories of UACs. The TVPRA provides that the Secretary of HHS "shall conduct follow-up services, during the pendency of removal proceedings, on children for whom a home study was conducted and is authorized to conduct follow-up services in cases involving children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency."[137]

In addition, on July 1, 2015, HHS extended post-release services to all UACs released to a non-relative sponsor.[138] It also instituted a new pilot program that extends post-release services to UACs who have already suffered a placement disruption or those who are at-risk of a "placement disruption."[139] A placement disruption is the term used by HHS to describe a situation where the sponsor-UAC relationship has broken down and typically involves the UAC leaving the home to stay somewhere else or even becoming homeless.[140] Under this pilot program, if a UAC calls the Help Line to report problems with their placement within 180 days, HHS can refer the UAC for post-release services even though it was not originally recommended prior to release.[141]

According to HHS, however, a sponsor is free to refuse post-release services—and, indeed, to refuse to allow HHS or its care providers to have any contact with

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[134] *ORR Policy Guide* § 2.7.2; Interview with David Fink, Federal Field Specialist Supervisor (Oct. 8, 2015).
[135] *ORR Policy Guide* § 2.7.2.
[136] *Id.*
[137] 8 U.S.C. § 1232(c)(3)(B).
[138] Document on file with Subcommittee.
[139] *About UCS Program: Health and Safety*, OFFICE OF REFUGEE RESETTLEMENT, http://www.acf.hhs.gov/programs/orr/about/ucs/health-and-safety.
[140] App. 255.
[141] App. 240.

the child after release. The sponsor must consent before services are provided and can withdraw consent whenever the sponsor chooses.[142]

E. HHS Places Children with Human Traffickers in Marion, Ohio

On July 1, 2015, a federal grand jury indicted four defendants for allegedly recruiting and smuggling Guatemalan nationals into the United States for the purpose of forced labor as agricultural workers at an egg farm in Marion, Ohio. The victims in the case include several minors who were placed with sponsors through HHS's Unaccompanied Children Program. According to the indictment, beginning in 2011, the defendants and unnamed conspirators brought Guatemalan nationals to the United States to work in forced labor. Around March 2014, the defendants started recruiting minors, as they believed they would "be easier to bring successfully into the country, easier to control, and harder workers."[143] The indictment further alleges that the traffickers obtained deeds to real property from the victims' families to secure the victims' smuggling debt and would retain the deeds to the properties if any part of the debt went unpaid.[144]

The traffickers lured the victims to travel to the United States on the promise that they would be able to attend school once they arrived.[145] Several of the minor victims were detained by immigration officials and transferred to HHS custody. In each instance, either a defendant or one of the defendants' associates falsely represented to HHS that they were a family friend of the victim so that the victims could be released to the defendants.[146] They did so via interviews with HHS care providers and the submission of falsified Family Reunification Applications, which HHS requires sponsors to complete prior to releasing an unaccompanied alien child to the sponsor.[147] When contacted by ORR care providers, the parents of the UACs corroborated the sponsors' stories.[148]

Once HHS released the minor victims to the defendants, they were forced to work at egg farms in Marion and other locations for six or seven days a week, twelve hours per day.[149] The work was physically demanding and, according to the indictment, included tasks such as de-beaking chickens and cleaning chicken coops.[150] The minor victims were forced to live in "substandard" trailers owned by the traffickers.[151] The traffickers withheld the victims' paychecks and gave them

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[142] *ORR Policy Guide* § 2.7.2.
[143] *Indictment* ¶ 34.
[144] *Id.* ¶ 35.
[145] *Id.* ¶ 37.
[146] *Id.* ¶ 38.
[147] *Id.*
[148] Internal Subcommittee Documents.
[149] *Indictment* ¶¶ 59, 63, 69, 72, 77, 92.
[150] *Id.* ¶ 8.
[151] *Id.* ¶¶ 39, 40.

very little money for food and necessities.[152] The traffickers would threaten the victims and their family members with physical harm, and even death, if they did not work or surrender their entire paychecks.[153] The minor victims were not given an accounting of their debt and often had their debt increased beyond what was initially agreed upon.[154] One of the traffickers assaulted a victim for refusing to turn over his paycheck.[155] The traffickers punished another minor victim when he complained about working at the egg farm by moving him to a different trailer "that was unsanitary and unsafe, with no bed, no heat, no hot water, no working toilets, and vermin."[156] The traffickers then called the minor victim's father and threatened to shoot the father in the head if the minor victim did not work.[157] The traffickers used physical violence against the minor victims to keep them in line and to ensure they continued to do as they were told.[158] The indictment alleges that the defendants "used a combination of threats, humiliation, deprivation, financial coercion, debt manipulation, and monitoring to create a climate of fear and helplessness that would compel [the victims'] compliance."[159]

Court records show that immigration officials received information in October 2011 that individuals were being smuggled into the United States to work at egg farms in Ohio.[160] According to reports, the U.S. Attorney for the Northern District of Ohio said that, although the indictment names 10 victims in this case, the evidence will show there were more.[161] In October 2014, investigators were told by an unidentified victim of the traffickers that approximately 20 other Guatemalan minors were being forced to work at eggs farms to pay off their smuggling debt.[162]

This report is based on the Subcommittee's independent investigation. Our report describes a number of examples of UACs placed by ORR in the Marion area who became victims of trafficking, but it does not describe every such UAC. The report should not be read to imply that the particular UACs described in the report are the UACs named in the indictment, that they are the only UACs placed in the Marion area, or that they are the only Marion UACs who became

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[152] *Id.* ¶¶ 42, 43.
[153] *Id.* ¶ 46.
[154] *Id.* ¶¶ 44, 45.
[155] *Id.* ¶ 47.
[156] *Id.* ¶ 65.
[157] *Id.* ¶ 66.
[158] *Id.* ¶ 46, 47.
[159] *Id.* ¶ 49.
[160] Kleinmann Aff., No. 4-MJ-5102, EFC No. 1, ¶ 11, (Dec. 19. 2014).
[161] Holly Zachariah, *Workers Trafficked for Ohio Egg Farms had Little Contact, Lived in Poverty*, COLUMBUS DISPATCH, July 12, 2015, http://www.dispatch.com/content/stories/local/2015/07/12/workers-trafficked-for-ohio-egg-farms-had-little-contact-lived-in-poverty.html.
[162] Kleinmann Aff. ¶ 11, (Dec. 19. 2014).

victims of trafficking. In light of the pending criminal prosecution, the Subcommittee did not seek that information from Department of Justice.

III. FINDINGS AND ANALYSIS

The Subcommittee's investigation of HHS's Unaccompanied Alien Children Program has focused on the placement of children with Category 3 sponsors—distant relatives or non-relatives—because such placements require the most care. The Subcommittee's investigation revealed that HHS has failed to take adequate steps to ensure that UACs are placed with safe and appropriate sponsors.

HHS places children with individuals about whom it knows relatively little and without verifying the limited information provided by sponsors about their alleged relationship with the child. Although it is important to determine whether a sponsor is attempting to accumulate multiple children at once—a warning sign for human trafficking—HHS's internal database is not capable of reliably determining whether a sponsor, or someone else at his or her address, has previously attempted to sponsor other UACs. HHS commonly places children with alleged distant relatives or family friends without setting eyes on the sponsor or his environment, and even permits the sponsor to bar post-release contact with the child. And until three days ago, HHS policy did not require adequate background checks for other adults living with a would-be sponsor or on the person designated to care for the child in the sponsor's absence.

The Subcommittee has also identified a need to improve federal oversight of UACs. At present, it appears that no federal agency claims responsibility for UACs after they have been placed with sponsors. Finally, the Subcommittee has found that the UAC program is not governed by regularized, transparent procedures.

A. Systemic Deficiencies in HHS's UAC Placement Process

HHS does not adequately vet sponsors to ensure that they are willing and able to provide proper care and support to any child—much less children as vulnerable as UACs. Nor does HHS ensure that UACs receive needed services after placement. In fact, HHS claims it is not responsible for a UAC at all once it releases such a child from federal custody to a sponsor. Rather, HHS believes that after release of a UAC's care is in the purview of local authorities. By the time local authorities become involved, however, it can be too late.

The Subcommittee reviewed a number of case files in which those defects in HHS's screening procedures may well have contributed to trafficking or other forms of abuse of UACs, including in the Marion cases.

In a briefing with the Subcommittee, the initial view expressed by ORR's Deputy Director of Children's Services, the person in operational charge of the UAC program, was that she was unaware of any failure to follow ORR/HHS procedure in the Marion cases. She was also unaware of any alternative practices that would have led to different outcomes in those cases, but reported that ORR was continuing to reassess its policies.[163]

1. HHS's Process for Verifying a Category 3 Sponsor's Identity and Relationship with a UAC Is Unreliable and Subject to Abuse

The TVPRA requires HHS, prior to placing a child with a sponsor, to "verif[y] ... the custodian's identity and relationship to the child, if any."[164] In FY2015, HHS placed approximately ten percent of UACs, or 2,605 children, with Category 3 sponsors—meaning alleged family friends or distant relatives.[165] The Subcommittee's review indicates that the process employed by HHS to verify the minor's relationship to these sponsors is unreliable.

Under HHS's procedures, documentation of a Category 3 relationship is not required. A Category 3 sponsor need only explain his relationship to the UAC on the Family Reunification Application, and the UAC and the UAC's family must then corroborate the sponsor's story to the care provider—a conversation that typically happens over the phone. In fact, when an alleged Category 1 or 2 sponsor (meaning a parent or close relative) cannot provide documentation supporting the existence of a relationship between themselves and the UAC, HHS may change the sponsor's designation to Category 3, thereby eliminating the requirement for providing such supporting documentation.[166]

The Subcommittee found that HHS accepts the alleged relationship between a Category 3 sponsor and a UAC (*e.g.*, "we were neighbors in our home country") if a person claiming to be the child's family member corroborates it. In a number of cases, however, parents who consented to the placement of their child with a certain sponsor were also complicit in the child's smuggling. Other cases revealed that parents have deceived HHS by claiming that a relationship existed between the sponsor and the UAC when it actually did not.

The Subcommittee reviewed a number of ORR files in which the Category 3 sponsor's explanation of his or her relationship with the UAC does not appear to have been corroborated or verified. Several examples illustrate the problem:

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[163] Interview with Bobbie Gregg, Deputy Director of Children's Servs., Office of Refugee Resettlement (Oct. 1, 2015).
[164] 8 U.S.C. § 1232(c)(3)(A).
[165] App. 217.
[166] Internal Subcommittee Documents.

- In a 2014 Marion case, the UAC and the sponsor claimed that they were cousins—which would have made the sponsor a Category 2 placement. But the sponsor was unable to provide proof of his relationship to the UAC, so the case manager changed the sponsor's designation to Category 3. Despite the requirement that a Category 3 sponsor explain the nature of his relationship with the minor, the case file contained no such explanation. The case manager spoke on the phone with the UAC's mother in the UAC's home country in an attempt to identify a sponsor for the UAC but the case file does not reflect any discussion of how the mother knew the sponsor. The case manager described the sponsor as an "unverifiable cousin/family friend" and proceeded with the placement with no further recorded attempts to verify the relationship. In reality, however, the sponsor was involved in a labor trafficking ring.[167]

- In an unrelated 2014 case, a UAC from Guatemala told HHS that he intended to live with his uncle in Virginia. Without providing any details, however, the file notes that the uncle was not willing to sponsor the UAC, so a family friend stepped forward. The family friend was allegedly the minor's ex-brother-in-law, but the file does not reflect any further explanation or verification of the relationship. The case file also does not reflect any attempt to contact the UAC's family in the country of origin. After HHS placed the UAC with the sponsor, the UAC contacted HHS to report that he no longer lived with his sponsor because his sponsor forced him to work to pay a debt he incurred on his journey from Guatemala. The UAC revealed that his mother had paid a labor broker $6,500 to get him to the U.S. The Category 3 sponsor with whom HHS placed the child turned out to be not the victim's former brother-in-law, but rather the labor broker's son—who forced the UAC to work almost 12 hours a day in conditions that made him ill. The sponsor later sent the UAC to live with the sponsor's brother and take a new job, for which he increased the UAC's debt to $10,900. The UAC then worked in a restaurant and lived, along with 14 other restaurant employees, in a home belonging to the restaurant owner. He was later kicked out of the home and moved in with a church member. After this ordeal, the UAC eventually received an Eligibility Letter from the Office of Trafficking in Persons (OTIP).[168]

- In another 2014 case, a UAC from Guatemala admitted to HHS that his parents pawned the title to their house to pay for his trip to the

[167] UAC1.
[168] UAC2.

U.S. The case file states that the UAC's sponsor was a neighbor of the UAC's family back home. While the file notes that the care provider had only a "brief conversation" with the sponsor, the sponsor agreed to make a special trip to another state to have his fingerprints taken. The sponsor sent the care provider a letter "explaining the relationship that exist[ed] between" him and the UAC's family, but HHS and the care provider took no further steps to verify the relationship. Approximately seven months after the UAC's release from HHS custody, the UAC contacted HHS to report that the UAC's sponsor had taken him out of school and was forcing him to work illegally. It was also revealed that the sponsor had been paid by the UAC's parents to make the trip to get his fingerprints taken and had charged the UAC thousands of dollars for falsified papers so that the UAC could work. OTIP eventually issued the UAC an Eligibility Letter.[169]

- In a sample case from 2014, a UAC from Honduras told HHS that he intended to live with his brother in Texas, but the brother could not act as a sponsor because he had no proof of identification. HHS considered a second individual as the UAC's sponsor, who was allegedly the UAC's paternal cousin who lived with the UAC's brother in a home owned by their mutual employer. That placement was not approved because the second sponsor never fully completed the Family Reunification Application. HHS eventually placed the UAC with an alleged family friend in Florida. The UAC and the sponsor had never met, but the sponsor told the care provider that she had "a good relationship with the minor's family." No further explanation or verification of their relationship was included in the case file.[170]

These files do not contain sufficient evidence of a genuine relationship between the UAC and the Category 3 sponsor. Nevertheless, HHS approved the placements.

Documents reviewed by the Subcommittee confirm that the failure to adequately verify a sponsor's alleged relationship with a UAC has led to unsafe placements. One UAC in the Marion cases, for example, told HHS after he was rescued from the trafficking ring that his sponsor (a supposed family friend) was really just "an individual used to get [the UAC] released from ORR care."[171] Another approved sponsor turned out to be a stranger, who parted ways with the UAC just after picking him up from the airport.[172]

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[169] UAC3.
[170] UAC4.
[171] UAC5.
[172] UAC6.

In cases where the Category 3 sponsor's relationship with the UAC cannot be verified, HHS commonly relies on the UAC's family to provide a Letter of Designation for Care of a Minor or a signed Power of Attorney that gives the sponsor permission to take custody of the UAC. In each of the cases described above, for example, in which details about the relationship between the sponsor and the UAC or the UAC's family were scant, HHS relied on such a power of attorney. But such instruments can be misleading. In the Marion cases, for example, the victim's parent provided HHS with the requested Letter of Designation or Power of Attorney—but there was a reason: The human traffickers held the deeds to their homes as collateral for their children's journey to the United States. The sooner their children were released from HHS custody, the sooner they could begin working to repay their debts.

2. HHS Is Unable to Safeguard Children from Sponsors Attempting to Accumulate Multiple Children

An important part of vetting a potential sponsor is determining whether he or she, or someone else at his or her address, has previously attempted to sponsor other UACs—which may indicate that the sponsor is engaged in human smuggling or worse, human trafficking. Such cases warrant, at a minimum, additional scrutiny. HHS's July 2015 policy change now requires a mandatory home study before releasing any UAC to a non-relative or distant relative sponsor who is seeking to sponsor multiple children, or has previously sponsored a UAC and is seeking to sponsor more.[173]

Prior to July 2015, care providers were required to determine whether a sponsor had previously sponsored other UACs by searching for the sponsor's name and address in the UAC Portal. The Portal is a valuable tool, but it has limitations. HHS data analysts told the Subcommittee that the Portal is "constantly changing," acknowledging that it has shortcomings that HHS is "working to fix."[174] For example, when entering a name or address, the user must be very specific; an entry for a street name including "Pl." is not the same thing as "Place." A minor misspelling (or different spelling) of a name could mean that a search will come back with no results.[175] What is more, the Portal contains very few entries created before January 7, 2014, when it was established. HHS relies on the sponsor to disclose whether he has sponsored or attempted to sponsor a UAC prior to that date.[176]

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[173] App. 238.
[174] Interview with Olympia Belay and Virak Kchao, ORR Data Analysts (Oct. 26, 2015).
[175] *Id.*
[176] If the sponsor indicates that he applied for sponsorship prior to January 2014, the care provider is to ask the Office of Security and Strategic Information (OSSI) at HHS to conduct a search of their records for the sponsor's information.

More troubling, care providers currently search the Portal for only *the sponsor's* name and address—not other household occupants or backup sponsors appearing on the Family Reunification Application. That basic safeguard would have alerted ORR to the fact that certain sponsors in the Marion cases were accumulating multiple children—a sign that should have triggered greater scrutiny. Two of the sponsors in the Marion case sponsored two children each at their common address; one of them tried for a third but was turned down by HHS. One sponsor was also listed, under an alias, as a backup sponsor for two other children—this time using a second address. That address, however, was listed as the primary home of the sponsors of *five* other children. And one of those sponsors claimed that the first sponsor lived with him at the second address—at least on one of the two successful applications he filled out. On the other, he claimed to live at a different address.

3. HHS Failed to Require Background Checks on Non-Sponsor Adult Household Members or on Backup Sponsors

Until January 25, 2016, HHS did not require other individuals living in sponsors' homes or individuals listed as backup sponsors to undergo background checks. Instead, the sponsorship application simply asked the sponsor to disclose whether any person in the sponsor's household has ever been charged with or convicted of a crime or investigated for the physical abuse, sexual abuse, neglect or abandonment of a minor. According to the Subcommittee's investigation, however, household occupants rarely underwent background checks to verify a sponsor's claim, which were previously required only if a "special concern is identified" or "there is a documented risk to the safety of the unaccompanied child, the child is especially vulnerable, and/or the case is being referred for a mandatory home study."[177]

That policy was unreliable and vulnerable to abuse. HHS has a statutory responsibility to ensure that a sponsor "is capable of providing for the child's physical and mental well-being,"[178] or to determine whether the sponsor "presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence."[179] Remarkably, HHS's pre-January 2016 policy, if adopted by a State government receiving federal funds for its child welfare system, would violate the provisions of the Child Abuse Prevention and Treatment Act. That law is administered by HHS and requires criminal background checks for "other adult relatives and non-relatives residing in" a foster- or adoptive parent's household.[180] Reflecting that basic rule in the child-welfare field, care providers

[177] *ORR Policy Guide* § 2.5.1.
[178] 8 U.S.C. § 1232(c)(3)(A).
[179] *Id.* (c)(3)(B).
[180] 42 U.S.C. § 5106a(b)(2)(xxii).

told Subcommittee staff that fingerprint checks and background checks should be conducted for all household occupants and individuals listed as a backup sponsor.[181]

Even more concerning, however, was the Subcommittee's discovery that prior to the January 25 policy change, individuals listed as a UAC's *backup sponsor* were not required to undergo a background check of any kind. A backup sponsor is the individual named by the sponsor who will supervise the UAC in the event the potential sponsor needs to leave the country or becomes unable to care for the UAC.[182] Thus, the backup sponsor is the individual designated to take custody of the UAC if the sponsor is arrested, becomes ill, passes away, or is deported. Yet until three days ago, backup sponsors were not required to undergo a public records check, an immigration check, a FBI fingerprint check, or a child abuse and neglect check.[183]

Our investigation turned up several cases in which HHS placed UACs in homes without knowing anything about the other adults who also lived there or the UAC's backup sponsor:

- In 2014, a UAC from Guatemala stated during the assessment process that he came to the U.S. to live with a maternal uncle. Then, however, the *partner* of the UAC's uncle, rather than the uncle himself, applied to be the UAC's sponsor. HHS classified the placement as a Category 3 since the UAC and sponsor were not related but did not perform the required FBI background check. The partner told HHS that the UAC's uncle would share in household duties and care of the UAC, and would serve as *backup* sponsor. Nevertheless, no type of background check was run on the UAC's uncle, and HHS approved the placement. In May 2015, the UAC contacted HHS to report that the sponsor had falsely accused him of watching child pornography, and that the sponsor told the UAC that he owed her $10,000 to keep her from telling the police about it. The UAC's sponsor and boyfriend (presumably the boy's uncle) forced the UAC to work for four months without pay and took away the UAC's identification documents while threatening that he would be arrested for child pornography if he stopped working. In November 2014, the UAC ran away to live with another alleged uncle. OTIP issued an Eligibility Letter to the UAC in June 2015.[184]

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[181] Interview with Care Provider A (Oct. 23, 2015).
[182] *Id.*
[183] *ORR/DCS Family Reunification Application*, OFFICE OF REFUGEE RESETTLEMENT, Aug. 9, 2012, http://www.acf.hhs.gov/programs/orr/resource/unaccompanied-childrens-services.
[184] UAC7.

- In a 2015 case involving a UAC from El Salvador, the UAC's sponsor, also his parent, reported to HHS that he lived with three unrelated adult males (ages 28, 38, and 50) in a three-bedroom home. The sponsor listed his sister as the backup sponsor on the application. The sponsor had an immigration arrest with a related immigration hearing date of April 2016, so it was clearly possible that the sponsor could be deported and the UAC would be left in the care of the sponsor's sister or one of his roommates. Nevertheless, a full background check was conducted only on the sponsor; no check was run on the sponsor's three adult roommates or the UAC's backup sponsor. In September 2015, the UAC contacted HHS to report that the sponsor had obtained false documentation for the UAC and forced the UAC to work as a dishwasher and later as a movie theater janitor for little or no pay. After HHS alerted the post-release services care provider, it was determined that the sponsor "took deliberate steps" to hide the trafficking of his son, including staging his apartment when the post-release services care provider visited to look as though the UAC lived in a nice bedroom when he was really being kept in the basement and given little food. Subsequently, OTIP issued an Eligibility Letter to the UAC.[185]

- In a 2014 sample case involving a UAC from Guatemala, the UAC's sponsor was an alleged uncle who lived in one apartment with his wife, his two-month old baby, and four additional family friends (ages 28, 35, 35, and 39). Birth certificates could not link the UAC and the sponsor as related, so the sponsor was later reclassified as a Category 3 sponsor. A full background check was run only on the sponsor.[186]

On January 25, 2016, HHS implemented a new background check policy. The new policy requires all individuals undergoing a public records check (currently all three sponsor categories) to also undergo a sex offender registry check. Additionally, all adult household members and backup sponsors will be required to undergo a public records check and a sex offender registry check.[187]

4. HHS Does Not Adequately Use Home Studies

In interviews with care providers and experts in the field, the Subcommittee has heard repeatedly that home studies are an invaluable tool for assessing the suitability of a foster-care placement for any child.[188] As one care provider

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[185] UAC8.
[186] UAC9.
[187] *ORR Policy Guide* § 2.5.1.
[188] Interview with Care Provider B (Oct. 16, 2015); Interview with Care Provider C (Oct. 30, 2015).

explained it, the notion of placing a child with a non-relative without "putting eyes on" the living environment is unheard-of in the child-welfare field.[189] Otherwise, the entire sponsor-assessment process can take place over the phone, without a care provider or anyone from HHS ever meeting a sponsor in person or being able to detect problems in the child's living environment.

ORR recommends home studies on a very limited basis. In FY2014, the year in which most of the Marion placements were made, HHS placed 53,518 UACs with sponsors yet performed only 1,401 home studies—or 2.5% of cases.[190] Over the past three years, HHS has performed home studies in between 2.5 and 7% of UAC placements.[191] None of the sponsors in the Marion cases was the subject of a home study.

The TVPRA makes home studies mandatory when (1) the UAC is identified as a victim of a severe form of trafficking; (2) the UAC is a special-needs child; (3) the UAC has been a victim of serious physical or sexual abuse; or (4) the UAC's sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking.[192]

As a matter of its policy discretion, HHS requires home studies in additional types of cases. Under a pilot program announced by HHS on July 1, 2015, HHS requires home studies for all UACs 12 years of age or younger who are to be placed with a Category 3 sponsor.[193] And on July 27, 2015, after the Marion, Ohio case came to light, HHS began requiring a home study if the proposed sponsor is a non-relative who is seeking to sponsor multiple children or has previously sponsored a child and is seeking to sponsor additional children.[194]

As discussed below, the new home study policies may not be sufficient to adequately assess placements with non-relative sponsors.

a. New Rules on Home Studies May Not Adequately Address Labor Trafficking

HHS recognized in May 2015 that its July 1 pilot program would leave out an important group of older UACs who are at heightened risk of labor trafficking. As discussed above, the pilot program extends home studies to Category 3 sponsors only where the UAC is 12 years old or younger—in other words, it excludes children

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[189] Interview with Care Provider C (Oct. 30, 2015).
[190] App. 223.
[191] See *id.*
[192] 8 U.S.C. § 1232(c)(3)(B).
[193] App. 238.
[194] *See id.* ("ORR also requires a mandatory home study before releasing any child to a non-relative sponsor who is seeking to sponsor multiple children, or previously sponsored a child and is seeking to sponsor additional children.").

who are likely old enough to work off a debt. In a May 28, 2015 email, Mark Greenberg, the HHS Acting Assistant Secretary for ACF, wrote the following to ORR senior leadership:

> I assume the reason for under 13 is that it is a smaller number for a pilot and that we'll have the greatest concern about young children less able to communicate out about their need for help. Right? But, this is probably less likely to pick up the debt labor group. Do you think it would just go too far to extend to all children going to non-relatives?[195]

Less than an hour later, the ORR Deputy Director responded: "You are correct about why we chose the younger children and the risk associated with the older children not being included."[196] The Deputy Director later circulated an explanatory document about the pilot noting that HHS is aware of the "risk of exploitation of unaccompanied children by unrelated adults, including the risk that the sponsor may be expecting the child to work to pay existing debt or to cover the child's expenses while living with the sponsor."[197] Nevertheless, HHS decided to implement the pilot program without expanding it to children over the age of 12—what Mr. Greenberg called the "debt labor group."[198]

b. HHS's Home Study Policy Does Not Conform to Analogous Federal Requirements or the Universal Practice of State Child Welfare Systems

Home studies are standard practice in child-welfare cases. The Model Family Foster Home Licensing Standards require every single foster care applicant to undergo a home study that includes at least one scheduled on-site visit and at least one scheduled in-home interview of each household member to assess the safety of the home.[199] Every state requires some form of home study prior to approving the placement of a child in a prospective foster home.[200] And every State is a party to

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[195] App. 212.
[196] App. 211.
[197] App. 251.
[198] App. 212.
[199] Those standards were developed by developed by the American Bar Association Center on Children and the Law, the Annie E. Casey Foundation, Generations United, and the National Association for Regulatory Administration. *Model Family Foster Home Licensing Standards*, NARA 3, http://www.grandfamilies.org/Portals/0/Model%20Licensing%20Standards%20FINAL.pdf.
[200] *Home Study Requirements for Prospective Foster Parents*, CHILDREN'S BUREAU, Mar. 2014, https://www.childwelfare.gov/pubPDFs/homestudyreqs.pdf.

the Interstate Compact on the Placement of Children, which requires a home study before a child can be placed in a home outside his or her home state.[201]

When asked why its home study policy does not comport with foster-care standards, an ORR senior official explained the Office's view that the UAC placement process is more like a parent's decision to place a child with a family friend than like foster care.[202] The Subcommittee's investigation, however, found that assumption unreliable—particularly because HHS does not require extensive verification of the nature of a Category 3 sponsor's relationship with the child. We can identify very little difference between placement of a child in foster care by a state and placement with a Category 3 sponsor with whom the child does not have a verified close family relationship.

In an interview with the Subcommittee, ORR's Policy Director justified HHS's failure to extend home studies to all Category 3 sponsors by stating that HHS is bound by the *Flores v. Reno* settlement agreement, which requires HHS to "promptly attempt to reunite the minor with his or her family" or place the child with a sponsor who is "capable and willing to care for the minor's well-being."[203] That explanation begs the question: The issue is whether a home study is required to assure the sponsor *meets* that standard of care. The Deputy Director of ORR echoed that sentiment, explaining that the downside to performing a home study for a Category 3 sponsor is that it takes 30 days.[204] Another ORR staffer told the Subcommittee that "home studies are invasive."[205] Home studies, do, however, require manpower and resources and can delay release of a UAC from a shelter.

By contrast, professional care providers told the Subcommittee that home studies are essential.[206] Without one, most of the time the entire sponsor assessment process takes place electronically or telephonically without any face-to-face contact with the sponsor. Without a home study, HHS may only become aware of problems in the home when it is too late. Some problems with a placement, moreover, are difficult to detect without visiting the sponsor's home. Some of the case files the Subcommittee reviewed showed that sponsors and UACs provided intentionally misleading information to the care provider in order to ensure the placement moved forward. In those cases, HHS discovered there was a problem

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[201] *Interjurisdictional Placement of Children in the Child Welfare System: Final Report*, CHILDREN'S BUREAU 1 – 3, Sept. 2006, http://www.aphsa.org/content/dam/AAICPC/PDF%20DOC/Home%20page/IJReport.pdf.

[202] Interview with Bobbie Gregg, Deputy Director of Children's Servs., Office of Refugee Resettlement (Oct. 1, 2015).

[203] Flores *Agreement* §¶ 14.

[204] Interview with Bobbie Gregg, Deputy Director of Children's Servs., Office of Refugee Resettlement (Oct. 1, 2015).

[205] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).

[206] Interview with Care Provider B (Oct. 16, 2015); Interview with Care Provider C (Oct. 30, 2015).

only because the UAC reported it after HHS had already placed the UAC with a sponsor.

c. Care Providers No Longer Have Discretion to Recommend a Home Study Unless the UAC Qualifies under the TVPRA

HHS unwisely bars its own care providers from conducting elective home studies based on case-specific concerns. Prior to 2013, HHS allowed care providers discretion to request home studies in circumstances that were not covered by the TVPRA. But HHS has since eliminated that ability.[207] Now, if a UAC does not qualify for a home study under the TVPRA, the July 1 pilot program, or the July 27 policy, then HHS forbids home studies to be conducted for a UAC's potential sponsor. Nearly all the care providers with whom the Subcommittee spoke affirmed that the ability to exercise discretion when recommending a home study under the old policy was valuable as some UAC cases do not fit neatly within the TVPRA's mandate. General Dynamics Information Technology, HHS's third-party case reviewer, also admitted that some cases fall into "a gray area,"[208] suggesting that discretion around the edges to order home studies in close cases, at least, could be important.

In other federal programs, by contrast, the use of home studies is not so narrowly circumscribed. According to a July 2015 Report by the Lutheran Immigration and Refugee Service (LIRS), "[t]he federal government routinely requires home studies for separated refugee children reunifying with relatives in the United States under the U.S. Department of State's refugee resettlement program," and suggested that "the same principle should be applied in family placements involving [the] population of unaccompanied children."[209] Nevertheless, LIRS stated that "despite their common usage and requirement in other types of placement decisions involving children, HHS requests home studies on a very limited basis."[210]

d. HHS Cut Home Studies from 30 Days to 10 Days

On December 1, 2015, HHS cut the timeframe in which care providers must complete home studies from 30 to 10 business days of their acceptance of a UAC's

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[207] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).
[208] Interview with General Dynamics Information Technology (Jan.15, 2015).
[209] *At the Crossroads for Unaccompanied Migrant Children: Policy, Practice, & Protection*, LUTHERAN IMMIGR. & REFUGEE SERVS. 16 (July 2015), http://lirs.org/wp-content/uploads/2015/07/LIRS_RoundtableReport_WEB.pdf.
[210] *Id.*

case.[211] This change in policy makes it more likely that care providers will feel rushed to complete the task and will be less likely to make necessary visits to a home or to utilize unannounced visits where appropriate. A home study provider told the Subcommittee that they "would be lucky to catch [a trafficking indicator] in a home study" under the new abbreviated process.

In some instances, an effective home study simply takes more than 10 days. In one case reviewed by the Subcommittee, for example, three visits over the course of approximately 40 days were necessary to complete a home study that turned up an important red flag.[212] Despite an uneventful first visit, two subsequent unannounced visits revealed that five additional adults were residing in a potential Category 1 sponsor's home that the potential sponsor had not previously disclosed to HHS.[213] If this home study had been conducted within the confines of HHS's new home study policy, this discrepancy likely would have gone unnoticed.

e. HHS Has Failed to Conduct Home Studies in Cases Qualifying under the TVPRA

HHS has not only limited discretionary home studies, it also has inconsistently conducted statutorily mandated home studies. In reviewing case files, the Subcommittee found several examples of cases that appear to qualify for home studies under the TVPRA but where no home study was ordered.

- In a 2015 case involving a UAC from El Salvador, the UAC as well as his mother revealed that his potential Category 1 sponsor had a history of physically abusing the UAC, including hitting the UAC with an electrical cord. The HHS care provider also learned that the potential sponsor had a history of drinking heavily. The potential sponsor, meanwhile, reported a "great relationship" with the UAC. Despite the fact that the UAC was plainly a victim of physical abuse, making a home study mandatory under the TVPRA, HHS released the UAC to the sponsor without a home study. Five months after placement, the UAC contacted HHS to report that the sponsor had abused the UAC and had obtained false documentation for the UAC and forced him to work simultaneously as a dishwasher and as a movie theater janitor, threatening the UAC with deportation if he stopped working. OTIP ultimately issued the UAC an Eligibility Letter.[214]

- In a 2013 case, a UAC from Honduras revealed during the HHS intake process that when she was seven years old, she was raped by her half-

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[211] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015); *ORR Operations Guide* at § 2.
[212] UAC10, UAC11.
[213] *Id.*
[214] UAC8.

brother and was abused by her parents who hit her with a belt and wooden rod and chained her to a bed for a week. Her grandmother also beat her with a power cord throughout her childhood. The UAC also disclosed that when she was 15, she became pregnant by a boyfriend and moved in with him, but moved out when he became verbally and physically abusive. Furthermore, the UAC's case file stated that the UAC screened positive for exhibiting symptoms of depression as well as of Post-Traumatic Stress Disorder. The UAC was obviously a victim of sexual and physical abuse under the TVPRA. Nevertheless, HHS released the UAC to a Category 2 sponsor with only post-release services and no home study. Nine months after placement, the UAC ran away from the sponsor's home. Although the sponsor did not provide a clear picture of what precipitated the UAC's departure from the home, the UAC stated that she did not want to return to the sponsor's home or have open communication with him due to them not getting along. After the UAC ran away, she moved in with her adult boyfriend who was later arrested; it appears from the file that the charge may have been related to kidnapping and sex trafficking. The UAC denied being kidnapped but was moved into a shelter for trafficking victims and later a residential program when she turned 18.[215]

- In another 2015 case, a UAC from Guatemala reported during the assessment process that she was sexually abused by her maternal grandfather on several occasions at age eight. The UAC also reported that her grandfather verbally abused her, calling her a prostitute and threatening to kill her father if she told anyone of the sexual abuse. Additionally, the UAC explained that she needed emotional help one year prior to arrival in the U.S., after she had a miscarriage when she was five months pregnant—one caused by an abortive injection that her grandmother deceitfully asked a doctor to give her. Despite being quite clearly a victim of sexual abuse under the TVPRA's mandatory provisions, HHS approved the UAC's release to her Category 2 sponsor without a home study or post-release services. Two months after her release, the UAC contacted HHS to report that her sponsor made her find employment as a restaurant cashier. During this time, the UAC stated that she was required to make payments to the sponsor to pay off the loan that the sponsor gave the UAC for her travel to US. The UAC also reported that she made payments to her sponsor for rent and utilities. In sum, the UAC estimated that she was paying the sponsor $1,600 per month. The

[215] *Id.*

> sponsor threatened to call police if the UAC did not work and make payments to the sponsor.[216]

These cases suggest that HHS does not consistently perform home studies even in the narrow set of cases in which they are statutorily required.

5. HHS Weaknesses in Post-Release Services

a. HHS's Practice of Allowing Sponsors to Refuse Post-Release Services Puts UACs at Risk

HHS allows sponsors to *refuse* post-release services offered to a UAC.[217] As we saw in a case file the Subcommittee reviewed, if an HHS care provider asks to speak to or provide assistance to a UAC placed with a sponsor, even a Category 3 sponsor, and that sponsor refuses to allow it, the care provider is instructed to close the case and take no further action.[218]

The Subcommittee found that this policy played a role in the Marion cases. ORR approved post-release services for one of the Marion UACs, in part because of the child's reported mental health problems. About one month after the UAC's release, the post-release case worker visited the alleged home of the sponsor. The person who opened the door, however, told the case worker that nobody by the sponsor's name or the UAC's name lived at that address. When, after many attempts, the case worker was finally able to reach the sponsor by phone, the sponsor then refused any further post-release services. The sponsor told the case worker that the UAC was visiting a nearby relative and, despite being expected back, had not yet returned. The sponsor also told the case worker that the UAC might go live with that relative. The case worker asked the sponsor to let ORR know if the UAC moved so that the care provider could update his file with a new address. The case worker detailed her conversation with the sponsor in the UAC's file and then closed the case, noting that the closure was pursuant to "ORR policy which states that Post Release Services are voluntary and sponsor refused services."[219]

Ultimately, that child found himself 50 miles from the sponsor's home on the egg farm in Marion. The sponsor was indicted in a federal criminal case for involvement in labor trafficking. While it is impossible to know with certainty whether mandatory post-release services would have prevented the harm that befell the UAC, it is clear that an important opportunity to detect signs of trafficking through interviewing the child and sponsor was missed. The Subcommittee

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[216] UAC12.
[217] *ORR Policy Guide*, § 2.7.2.
[218] UAC12
[219] UAC12.

discussed this case with a senior ORR official who told us that, under the circumstances, the case worker followed ORR procedure correctly.[220]

Another victim of the Marion case, who was returned to ORR custody after being rescued, admitted that he thought he was coming to the U.S. to work and go to school. Instead of being enrolled in school, however, he was forced to work at the egg farm near Marion. When he suggested he might not continue working at the farm, a coyote threatened to kill him and hurt his family.[221] A post-release home visit could have readily revealed that the child was not enrolled in school. But under current HHS policy, there is nothing a care giver can do to gain access to a child in similar coercive circumstances over the objection of the abusive sponsor.

HHS's policy of permitting sponsors to refuse post-release services is in considerable tension with the governing statute. Federal law explicitly provides that "the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services."[222] All agree that UACs remain UACs under this definition even after placement with sponsors. The statute also makes post-release services mandatory in particular cases[223]—yet HHS allows the sponsor a veto over those services. Moreover, accepting post-release services is often a condition of a sponsorship agreement; and the *Flores* Agreement with former INS (which HHS treats as binding) explicitly provides that INS could "terminate the custody arrangements and assume legal custody of any minor whose custodian fails to comply with the agreement."[224]

HHS's view, however, is that once a child is placed with a sponsor, its authority and "responsibilit[y]" for the "care and custody" of the child ends.[225] HHS told the Subcommittee that this interpretation is longstanding, but it is not reflected in any regulation promulgated by the Department—nor in any other document HHS could produce to the Subcommittee. In response to the Subcommittee's request for documents supporting this interpretation, HHS explained its view that the overall structure of the statute implied that once a child is released into the care of a custodian, it could no longer exercise any responsibility for the child's care.[226] HHS also explained that, although it was aware of the *Flores*

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[220] Interview with Bobbie Gregg, Deputy Director of Children's Servs., Office of Refugee Resettlement (Oct. 1, 2015).
[221] UAC6.
[222] 8 U.S.C. § 1232(b)(1).
[223] 8 U.S.C. § 1232(c)(3)(B).
[224] App. 198.
[225] App. 149.
[226] To summarize the Department's position, it believes its obligation to be "responsibl[e]" for the "care and custody" of UACs created by § 1232(b)(1) cannot extend beyond the point that it has legal

Agreement provision acknowledging INS's authority to terminate placements for violation of a sponsorship agreement, HHS had never invoked that provision and was unsure whether it or DHS would be the proper agency to do so. As explained below, in fact, in 2008 the HHS Inspector General advised the Department to enter into an agreement deciding which agency would be responsible for ensuring the safety of children after placement, but it has never done so. Instead, the Department's apparent view is that *neither* federal agency is responsible.

b. ORR Does Not Offer Post-Release Services with Sufficient Frequency

According to HHS, post-release services are only offered in ten percent of cases each year.[227] Many care providers feel that is not enough.[228] Care providers that spoke with the Subcommittee emphasized that unless a UAC receives a home study, post-release services provide the only opportunity for in-person contact with the sponsor.[229] Care providers explained that the placement process is incredibly difficult and stressful for both the UAC and the sponsor—especially if they have never met before.[230] That makes it all the more important for a child-welfare specialist to have some contact with the UAC after placement. A July 2015 report from Lutheran Immigration and Refugee Service, a key HHS care provider, explains:

> One of the most critical reforms needed for the protection of children who are released into the community is the expansion of post-release services. At a minimum, there should be check-ins with every child to ensure that the child is safe.[231]

Particularly in UAC cases without home studies in advance of release, post-release services may be a child's best chance to gain the aid of care providers who can investigate whether their living environment is safe. It may also be the only way a care provider will learn of problems that could potentially lead to what HHS

"custody" of a child, and that other provisions of § 1232 make clear that a sponsor with whom a UAC is placed is his "custodian." ORR also observes that the statute distinguishes between the "release" of a child and services to be offered post-release, or to children who "have been in the custody of the Secretary" but are no longer. It also points to the Flores Agreement, which similarly distinguishes between "detention" of a UAC by INS (now ORR) and his "release" from "custody." Finally, ORR argues that had Congress wished to make it ultimately responsible for UACs' care after release, it would have authorized public assistance for those UACs. [App. 149].

[227] Interview with Jallyn Sualog, ORR Division of Children's Services Director (Jan. 21, 2016).

[228] Interview with Provider D (Oct. 13, 2015); Interview with Care Provider A (Oct. 23, 2015); Interview with Care Provider E (Nov. 9, 2015); Interview with Care Provider C (Oct. 30, 2015).

[229] Interview with Care Provider C (Oct. 30, 2015).

[230] *Id.*

[231] *At the Crossroads for Unaccompanied Migrant Children: Policy, Practice, & Protection*, LUTHERAN IMMIGR. & REFUGEE SERV. 26 (July 2015), http://lirs.org/wp-content/uploads/2015/07/LIRS_RoundtableReport_WEB.pdf.

calls a placement disruption. A senior policy advisor at HHS told the Subcommittee that HHS considers whatever happens to a UAC after placement, including a placement disruption, to be in the purview of a state agency such as Child Protective Services.[232]

An example illustrates the dangers of not having post-placement contact with a UAC. In one case reviewed by the Subcommittee, HHS placed a UAC with an unverifiable distant cousin who paid for the UAC's journey to the U.S. The UAC had experienced considerable hardship before placement. In her home country, two men sexually assaulted her when she was 14 and she became pregnant as a result. And on her journey to the United States, she was kidnaped but eventually escaped. Because of that history, HHS recommended she receive post-release services, which included a number of home visits. All seemed well during the first home visit. But less than a month later, the UAC requested a second home visit, during which she confessed that her sponsor had lied about their sleeping arrangements during the first home visit. She went on to divulge the true story surrounding her relationship with her sponsor: They were not related at all, but the UAC's mother encouraged them to claim they were. Her sponsor offered to bring her to the U.S. if she would be his wife upon arrival. After placement, the sponsor and the UAC had sexual intercourse. The UAC reported being uncomfortable with the sleeping arrangements and no longer wanted to be in the sponsor's home. She was taken into custody by Child Protective Services, and OTIP issued her an Eligibility Letter.[233]

HHS recently implemented a number of changes meant to improve the safety of UACs after release. On May 15, 2015, HHS expanded the use of an existing ORR hotline to accept calls from UACs or their sponsors with post-placement concerns.[234] Prior to releasing the UAC to the sponsor, HHS provides the UAC and the sponsor with a telephone number to the Help Line for them to call in the event a problem arises in the home.[235] The Help Line is a good resource but no substitute for a trained caregiver's post-release, face-to-face contact with the sponsor and UAC.

In August 2015, HHS also began requiring what it calls "Safety and Well Being Follow Up Calls."[236] HHS care providers are now required to conduct a follow up phone call with the UAC or the sponsor 30 days after a UAC's release date. According to HHS, the purpose of the call "is to determine whether the child is still residing with the sponsor, is enrolled in or attending school, is aware of upcoming

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[232] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).
[233] UAC13.
[234] App. 240.
[235] *Id.*
[236] *ORR Policy Guide* at § 2.8.4.

court dates, and is safe."[237] If the HHS care provider thinks the UAC or sponsor is in need of services or support, the care provider must "refer the sponsor or the child to the ORR National Call Center and provide the sponsor or the child the Call Center contact information."[238] If a care provider does not make contact with the UAC or the sponsor, the care provider is to make further attempts, at different times of day; if that fails, the care provider notifies HHS.

That process appears to have limited utility. When asked what happens *after* a care provider fails to make contact with a UAC, HHS told the Subcommittee that HHS will note the lack of contact in the UAC's record but "there is no means to follow up beyond that."[239] As a care provider told the Subcommittee, after the 30-day follow up call, care providers have no way to obtain information about the UAC or the placement without post-release contact, and would never know if the placement is in danger of failing unless the UAC or sponsor makes contact with HHS via the Help Line.[240]

The Subcommittee spoke with six major care providers that provide post-release services for HHS; all of them supported expanding post-release services.[241] All believed that post-release services should be offered to all Category 3 cases, and that care providers should at least have the discretion to recommend it in a broader range of circumstances besides cases involving a home study or special risks. When asked by the Subcommittee whether HHS has considered extending post-release services to all UACs, a senior ORR policy advisor told the Subcommittee that it has not been considered or discussed.[242]

6. HHS Policy Allowed Non-Relatives with Criminal Histories to Sponsor Children

Prior to January 25, 2016, HHS instructed care providers that no criminal offense was a *per se* bar to sponsorship.[243] By contrast, the Model Family Foster Home Licensing Standards (which reflects requirements found in the Adam Walsh Act of 2006) prescribe certain crimes that automatically disqualify an applicant

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[237] *Id.*
[238] *Id.*
[239] Interview with Jallyn Sualog, Director, Division of Children's Services, Office of Refugee Resettlement (Jan. 19, 2016).
[240] Interview with Care Provider F (Sept. 21, 2015).
[241] Interview with Care Provider A (Oct. 23, 2015); Interview with Care Provider B (Oct. 16, 2015); Interview with Care Provider C (Oct. 30, 2015); Interview with Care Provider D (Oct. 13, 2015); Interview with Care Provider E (Nov. 9, 2015); Interview with Care Provider F (Sept. 21, 2015).
[242] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).
[243] Interview with Bobbie Gregg, Deputy Director of Children's Servs., Office of Refugee Resettlement (Oct. 1, 2015).

from serving as a foster parent.[244] Such crimes include felony convictions for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.[245] Under the Model Standards, a prospective foster parent cannot serve if he has been convicted within the past five years of a felony for physical assault, battery, or a drug-related offense.[246]

The Subcommittee requested basic data concerning sponsors with criminal records. But HHS was unable to tell the Subcommittee how many UACs were released to sponsors having a criminal record; the Office explained that "[w]hile information bearing on a sponsor's criminal history is contained in a child's case file, ORR's computer systems currently do not have the capability to generate reports that aggregate this data."[247]

On January 25, 2016, HHS implemented new policies that automatically disqualify potential Category 2 or Category 3 sponsors if the sponsor or a member of his or her household have been convicted of a serious crime, including any felony involving child abuse or neglect, any felony against children, and any violent felony.[248] In addition, HHS will now deny sponsorship applications if the sponsor, or a member of his household, has had a substantiated adverse child welfare finding based on severe chronic abuse or neglect and other serious problems.[249]

7. HHS Does Not Ensure a Sponsor Has Adequate Income to Support a UAC

Before placing a child with a sponsor, HHS must "make[] a determination that the proposed custodian is capable of providing for the child's physical and mental well-being."[250] Part of that obligation is to ensure that a sponsor has adequate financial means to provide for the basic needs of a new dependent.

HHS, however, does not require that a sponsor's income meet any set threshold. A senior ORR official told the Subcommittee that HHS considers the totality of the circumstances when determining whether a sponsor is capable of caring for a child, rather than disqualifying a sponsor based on their income

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[244] *Model Family Foster Home Licensing Standards*, NARA 3, http://www.grandfamilies.org/Portals/0/Model%20Licensing%20Standards%20FINAL.pdf.
[245] *Id.* at 32.
[246] *Id.*
[247] App. 224.
[248] *ORR Policy Guide* at §2.7.4. Other disqualifying convictions include any misdemeanor sex crime, drug offenses that compromise the sponsor's ability to ensure the safety and well-being of the child, and human smuggling or trafficking.
[249] *Id.*
[250] 8 U.S.C. § 1232(c)(3)(A).

level.[251] HHS's sponsor application includes a "Financial Information" section that asks the sponsor to explain how they plan to provide for the child financially. The sponsor typically will provide the name of their employer or a description of their job and the amount they earn each week. In addition to the sponsor's income, HHS will also consider the income of a sponsor's spouse, significant other, or family member.[252]

On April 3, 2014, HHS revised its policies to no longer require proof of a sponsor's income.[253] This policy is reasonable in the case of Category 1 sponsors, but raises concerns when the sponsors are non-relatives. When the Subcommittee asked a senior policy official at HHS about the reasons behind the policy change, the official stated that HHS found that requiring proof of income was burdensome to the sponsors.[254] The official also stated that the relevant statute does not require HHS to seek proof of income from sponsors.[255] ORR does, however, have more onerous requirements such as obtaining a copy of a child's birth certificate from a Central American country.[256]

In addition, in several cases reviewed by the Subcommittee, HHS has authorized placement of children with non-relative sponsors that have minimal financial means. A sponsor's low income could potentially raise trafficking concerns. According to an HHS care provider interviewed by the Subcommittee, if a sponsor does not have sufficient income to support herself, it could indicate that the sponsor will expect the minor to work instead of, or in addition to, going to school.[257] The risk of trafficking increases further if the UAC or her family owes a debt for her journey to the U.S.—and further increases if the debt is owed to the UAC's sponsor.

In an interview with the Subcommittee, an ORR Field Specialist Supervisor explained that low sponsor income is not necessarily a trafficking indicator.[258] He noted that if a sponsor has a low income then it may be necessary for the care provider to ask the sponsor if they have an alternative means of financial support, such as assistance from a family member or relative.[259] The supervisor agreed,

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[251] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).
[252] Interview with David Fink, Federal Field Specialist Supervisor (Oct. 8, 2015).
[253] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).
[254] *Id.*
[255] *Id.*
[256] *ORR Policy Guide* § 2.2.4.
[257] Interview with Care Provider B (Oct. 16, 2015).
[258] Interview with David Fink, Federal Field Specialist Supervisor (Oct. 8, 2015).
[259] *Id.*

however, that a case involving a Category 3 sponsor with low income where the UAC has debt from his journey would be "a huge red flag for [HHS]."[260]

In the Marion case, one sponsor stated that she earned $200 each week working from home,[261] which amounts to $10,400 a year—well below the federal poverty line. Neither HHS nor the care provider record any attempt to determine whether this reported income was supplemented by any other sources, such as government assistance.[262]

8. HHS Approves Placements with Sponsors Who May Not Remain in the Country

HHS does not disqualify sponsors based on immigration status; it is willing to place UACs with individuals who are in the country illegally or on temporary visas that will soon expire.[263] That policy is understandable when the sponsor is the child's parent or close relative, and granting the application results in family reunification. But for non-relatives, it may create additional risks for the child. For example, sponsor may leave the United States while the UAC's immigration proceedings are still pending—either because the sponsor's temporary visa expires or because an undocumented sponsor is removed or voluntarily departs, which would cause further disruption for the child. For example, HHS approved the straight release of a UAC to a Category 3 sponsor who was in the U.S. on a B-1/B-2 tourist/business visa, which has an initial duration of stay for only six months. A B-1/B-2 visa holder can be granted an extension for another six months for a total duration of no more than one year in the U.S. on any trip.[264]

9. Sponsors Often Inflict Legal Harm on UACs by Not Ensuring Their Appearance At Immigration Proceedings

Sponsors often fail to ensure the UAC's appearance at immigration proceedings—one of a sponsor's principal tasks. Prior to release of the UAC from HHS custody, the sponsor is required to sign a form agreeing to attend a legal orientation program and to "ensure the minor's presence at all future proceedings before DHS/Immigration and Customs Enforcement (ICE) and DOJ/EOIR."[265] The importance of that obligation is reflected in the TVPRA, which provides that HHS and the Department of Justice "shall cooperate . . . to ensure that custodians receive

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[260] *Id.*
[261] UAC14.
[262] *Id.*
[263] Interview with Bobbie Gregg, Deputy Director of Children's Servs., Office of Refugee Resettlement (Oct. 1, 2015).
[264] U.S. Citizenship and Immigration Services, B-1 Temporary Business Visitor, https://www.uscis.gov/working-united-states/temporary-visitors-business/b-1-temporary-business-visitor.
[265] App. 147.

legal orientation programs" and that "at a minimum, such presentations shall address the custodian's responsibility to attempt to ensure the child's appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking."[266]

Failure to appear at an immigration hearing can have significant adverse consequences for an alien child. Such a child may be ordered removed *in absentia*, which can serve as a bar to subsequent immigration relief for a period of 10 years if the child leaves and then attempts to re-enter the United States—making the child ineligible for cancellation of removal,[267] voluntary departure,[268] adjustment of status to permanent resident,[269] or adjustment of status of nonimmigrant classification.[270]

Data from the Department of Justice suggest that a considerable number of UACs do not appear for their immigration hearings. According to information from the Executive Office for Immigration Review, from July 18, 2014 through December 15, 2015, immigration courts held 40,612 master calendar hearings and completed 20,272 cases marked "UC" (for "unaccompanied child") in EOIR's database. Of those cases, 9,496 resulted in removal orders. Of those removal orders, 8,328 were decided *in absentia*. In other words, *in absentia* removal orders accounted for 41.1% of all completed cases, and 87.7% of all removal orders entered against UACs. It is impossible to determine from these data the rate at which UACs fail to appear; not every such failure results in a *in absentia* order (because even if the alien does not show up, the government must still prove that he is removable and received sufficient notice), but every *in absentia* order was caused by a failure to appear.[271]

By contrast, the data suggest that UACs that *do* appear for their hearings stand a better chance of obtaining some kind of relief. Of the 11,944 case completions in UC cases that did not result in removal *in absentia*, only 1,168 (or 9.8%) resulted in removal orders. As for the rest, 4,165 (34.9%) were "terminated"—usually meaning, according to EOIR's discussions with Subcommittee staff, that the child received some immigration relief from USCIS.[272]

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[266] *See* 8 U.S.C. § 1232(c)(4).
[267] *See* 8 U.S.C. § 1229(b).
[268] *See* 8 U.S.C. § 1229(c).
[269] *See* 8 U.S.C. § 1225.
[270] *See* 8 U.S.C. § 1258.
[271] Interview with Staff of Executive Office for Immigration Review.
[272] These terminations exclude terminations under DHS's prosecutorial discretion initiative. An additional 5,640 (47.2% of completed cases other than *in absentia* removals) have been administratively closed, which indicates the UAC is currently pursuing immigration relief from DHS.

In short, then, failing to ensure a UAC's appearance at an immigration hearing appears not only very common, but also prejudicial to the child's otherwise substantial chances of obtaining immigration relief.

B. Need to Improve Oversight and Regularize Procedures

1. No Federal Agency Is Currently Responsible for UACs Placed with Sponsors Other than Parents

In March 2008, the HHS Office of Inspector General (OIG) released a report assessing HHS's placement, care, and release of unaccompanied alien children.[273] The Inspector General found that "[w]hen responsibilities were divided between HHS and DHS, no formal memorandum of understanding (MOU) was established to clarify each Department's specific roles."[274] Because there is no specific agreement, the report continued, "it is not clear which Department is responsible for ensuring the safety of children once they are released to sponsors and which Department is responsible for ensuring sponsors' continued compliance with sponsor agreements."[275]

The OIG report recommended that HHS establish a MOU with DHS to delineate the roles and responsibilities of each Department.[276] The OIG recommended that, "at a minimum," the MOU should address "[e]ach entity's specific responsibilities for gathering and exchanging information when a child comes into Federal custody and is placed into a HHS ORR facility" and "[e]ach entity's specific responsibilities for gathering and exchanging information about children who have been reunified with a sponsor to ensure that children are safe and that sponsors are adhering to agreements."[277]

In November 2015, Subcommittee staff met with representatives of the Inspector General and learned that HHS has never established a MOU with DHS.[278] According to OIG, HHS informed the Inspector General that it had a draft MOU approved in May 2013, but when the OIG followed up with HHS in November 2013, HHS responded that the MOU was still in draft form.[279] In October 2015, the OIG followed up with HHS a second time and HHS again stated that the MOU was

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[273] *Division of Unaccompanied Children's Services: Efforts to Serve Children*, DEP'T OF HEALTH & HUMAN SERV.: OFFICE OF INSPECTOR GEN., OEI-07-06-00290 (Mar. 2008), http://oig.hhs.gov/oei/reports/oei-07-06-00290.pdf.
[274] *Id.* at ii.
[275] *Id.* at ii.
[276] *Id.* at iii.
[277] *Id.*
[278] Meeting with Office of Inspector General, U.S. Department of Health and Human Services (Nov. 23, 2015).
[279] *Id.*

in draft form.[280] At the time of the Subcommittee's meeting with the OIG, the OIG had not seen a copy of the draft MOU.[281]

HHS claims that it has no responsibility for the care and safety of UACs after they are placed with the sponsors it selects.[282] As explained above, that interpretation is in tension with the text of 8 U.S.C. § 1232, which makes the "care and custody" of all UACs the responsibility of HHS, without limitation. That interpretation is also inconsistent with the still-in-effect *Flores* Agreement, which authorized HHS's predecessor agency to terminate placements with sponsors. Nevertheless, HHS believes it has no authority or responsibility to ensure the safety of children after placement.[283]

2. Lack of Transparency

Finally, the Subcommittee has found that the UAC program is not governed by regularized, transparent procedures. As noted above, ORR has never codified its policies in regulations or subjected them to the public scrutiny and accountability that comes from notice and comment rulemaking.

Instead, ORR's policies are kept and revised in an ad hoc manner. ORR maintains a "Policy Guide" on its website that provides general guidance on five subjects: "Placement in ORR Care Provider Facilities," "Safe and Timely Release from ORR Care," "Services," "Preventing, Detecting, and Responding to Sexual Abuse and Harassment," and "Program Management."[284] The guidance has existed in draft form since 2006, but was not made available on the Internet until January 30, 2015. According to ORR's Policy Director, the document long remained in draft form because it was "never cleared" by ORR leadership.[285] Now, however, according to the Policy Director, the online Policy Guide is official policy of ORR and is not a draft.[286]

The Policy Guide is constantly being revised. An ORR policy adviser interviewed by the Subcommittee described it as a "living document" that is updated or revised sometimes as often as once a week.[287] On what are called

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[280] *Id.*
[281] *Id.*
[282] Interview with AnnaMarie Bena, Director, Division of Policy, Office of Refugee Resettlement (Jan. 19, 2016).
[283] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).
[284] *See generally ORR Policy Guide.*
[285] Interview with AnnaMarie Bena, Director, Division of Policy, Office of Refugee Resettlement (Jan. 19, 2016).
[286] *Id.*
[287] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).

"Policy Mondays," ORR sends email updates to care providers to notify them of changes to the Policy Guide, but there is no electronic record of the changes or the previous versions of the Guide. For example, Subcommittee staff printed the Policy Guide on September 9, 2015; approximately one week later, the guide had undergone substantive changes, without indications of what had changed (much less why).

An internal ORR document reflects the challenges that comes with not having a finalized set of rules to follow. An October 2015 draft memo addressed to HHS leadership entitled, "After Action Report: The Unaccompanied Children Program and the May–July 2014 Surge," explains:

> While a UC policy guide had been in draft form for some years, the lack of a final set of policy resources hampered the program both internally (staff were sometimes at a loss in identifying guidance to follow) and externally (it was difficult to provide outside stakeholders with clear, timely answers to policy-oriented questions).[288]

In addition to the Policy Guide, the Division of Children's Services is currently drafting an Operations Guide that deals with procedural aspects of the UAC Program. That document is not publicly available. Rather, ORR has provided portions of it to care providers, and revises and adds to it through nonpublic updates.

Under its current practice, ORR can make major changes to its placement procedures without notice to the public, care providers, or other interested parties. In the fall of 2015, ORR included in the Unified Agenda a notice of its intention to promulgate a rule related to the implementation of the TVPRA.[289] The abstract notes that the rule would implement changes "affecting age determination, placement determinations, suitability assessments, and home studies."[290] It would also codify sections of the *Flores v. Reno* settlement agreement. Further details about the proposed rule are not yet available.

Setting governmental policy on the fly—without basic public notice or even a clear record of revisions to that policy—is inconsistent with the accountability and transparency that should be expected of every administrative agency. The Subcommittee finds that HHS has failed to adopt and maintain a regularized, transparent body of policies and procedures concerning the placement of UACs.

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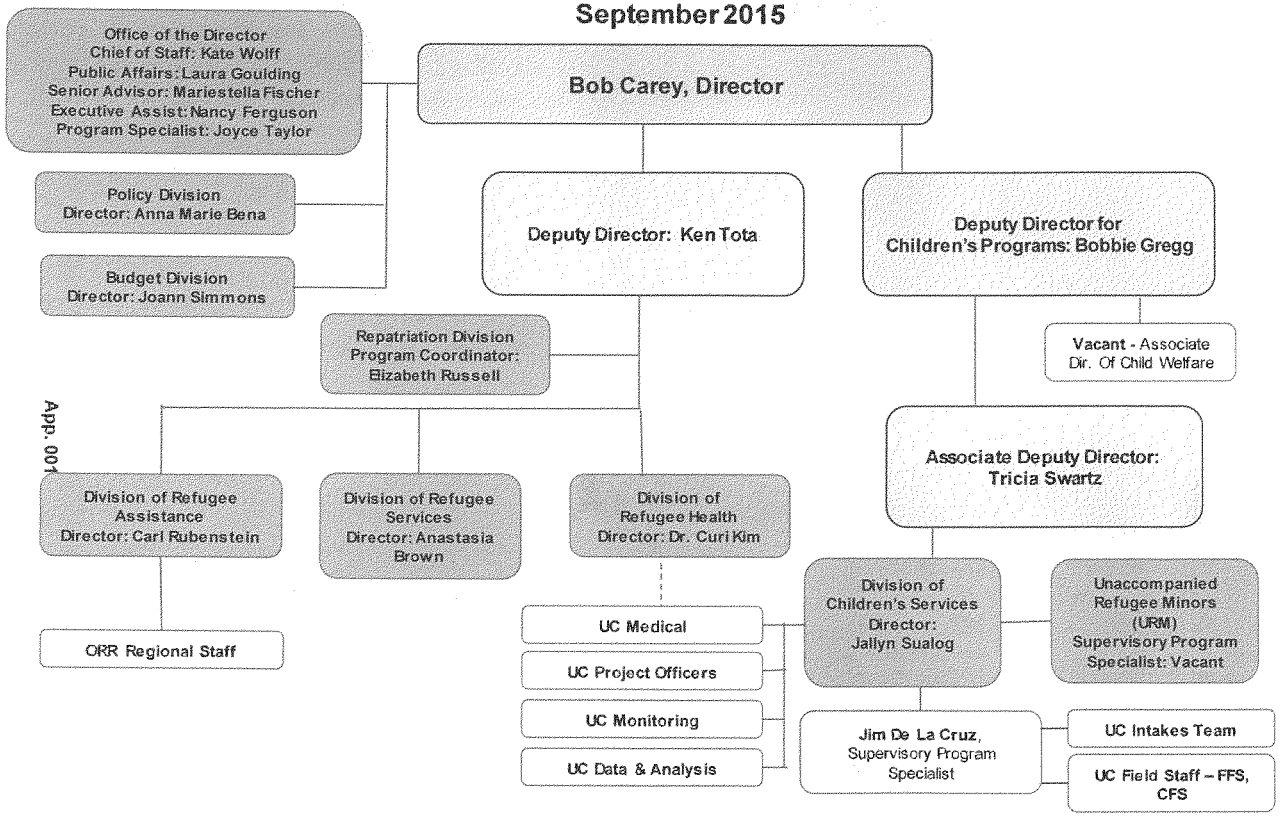
[288] App. 243.
[289] See http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201110&RIN=0970-AC42
[290] *Implementation of the Unaccompanied Alien Children (UAC) Provisions of the Trafficking Victims Reauthorization Act of 2008*, OFFICE OF INFO. & REGULATORY AFFAIRS, (proposed March 2015) *available at* http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201510&RIN=0970-AC42.

APPENDIX

Office of Refugee Resettlement
September 2015



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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TOLEDO

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. AROLDO RIGOBERTO CASTILLO-SERRANO, aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, CONRADO SALGADO SOTO, and PABLO DURAN, JR. Defendants.	)	SUPERSEDING INDICTMENT CASE NO. 3:15CR0024 JUDGE JAMES G. CARR Title 8, United States Code, Sections 1324(a)(1)(A)(ii), 1324(a)(1)(A)(iv), 1324(a)(1)(A)(v)(II), 1324(a)(1)(B)(i), and 1324(a)(4)(A); Title 18, United States Code, Sections 2, 1001(a)(2), 1512(b)(3), 1589(a), 1589(b), 1594(a), and 1594(b)

The Grand Jury charges:

GENERAL ALLEGATIONS

The Entities

1. At all times material to this Superseding Indictment, Trillium Farms ("Trillium") was a Limited Liability Corporation incorporated in Ohio. Trillium owned and operated a number of large egg farms in the Marion, Ohio area.

2. Trillium conducted operations in the Northern District of Ohio, Western Division, and elsewhere.

3. Oakridge Estates was a mobile home park with numerous individual trailer homes, located at 6605 Marion-Agosta Road, Marion, Ohio.

4. Papagos, Inc. ("Papagos") was a for-profit corporation incorporated in Ohio, and owned and operated by defendant CONRADO SALGADO SOTO.

5. Haba Corporate Services, Inc. ("Haba") was a for-profit corporation incorporated in Ohio, and owned and operated by P.D.R. and E.D.R.

6. Second Generation Farm Services, L.L.C. ("Second Generation") was a subsidiary of Haba and a for-profit corporation incorporated in Ohio. Second Generation was owned and operated by PABLO DURAN, JR.

7. Rabbit Cleaning Services, Inc. ("Rabbit Cleaning") was a for-profit company incorporated in Ohio, and owned and operated by Bartolo Dominguez, a separately indicted co-defendant.

8. Trillium contracted with Haba and Second Generation to provide manual laborers for work at Trillium's egg farms. Haba and Second Generation hired Papagos, Rabbit Cleaning, and other sub-contractors to find the manual laborers, transport them to and from the egg farms, and supervise their work at the egg farms. The laborers' work included cleaning the chicken coops, loading and unloading crates of chickens, de-beaking the chickens, and vaccinating chickens.

The Victims

9. Victim 1 is a Guatemalan man born in 1986.

10. Victim 2 is a Guatemalan man born in 1999. At all times relevant to this Superseding Indictment, he was a minor.

11. Victim 3 is a Guatemalan man born in 1997. At all times relevant to this Superseding Indictment, he was a minor.

12. Victim 4 is a Guatemalan man born in 1997. At all times relevant to this Superseding Indictment, he was a minor.

13. Victim 5 is a Guatemalan man born in 1998. At all times relevant to this Superseding indictment, he was a minor.

14. Victim 6 is a Guatemalan man born in 1998. At all times relevant to this Superseding Indictment, he was a minor.

15. Victim 7 is a Guatemalan man born in 1989.

16. Victim 8 is a Guatemalan man born in 1997. At all times relevant to this Superseding Indictment, he was a minor.

17. Victim 9 is a Guatemalan man born in 1997. At all times relevant to this Superseding Indictment, he was a minor.

18. Victim 10 is a Guatemalan man born in 1996. At all times relevant to this Superseding Indictment, he was a minor.

The Defendants

19. The Defendants, AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, and CONRADO SALGADO SOTO, recruited and smuggled Guatemalan nationals, many of them minors, to hold them in a condition of forced labor as agricultural workers in the Marion, Ohio, area.

20. AROLDO RIGOBERTO CASTILLO-SERRANO is a Guatemala national who was a leader in the human trafficking organization. CASTILLO-SERRANO was illegally present in the United States from in or around December 2002 until in or around March 2013.

21. AROLDO RIGOBERTO CASTILLO-SERRANO recruited the workers in Guatemala and organized the financial aspects of the smuggling.

22. AROLDO RIGOBERTO CASTILLO-SERRANO owned, operated, and controlled a set of trailers at 6605 Marion-Agosta Road in Marion, Ohio, (hereinafter "the Trailers"), at which the victims were housed.

23. In or around March 2013, after AROLDO RIGOBERTO CASTILLO-SERRANO returned to Guatemala, he continued in his role as a leader in the human trafficking organization.

24. ANA ANGELICA PEDRO JUAN is a Guatemala citizen. She illegally entered the United States in or around February 2011.

25. ANA ANGELICA PEDRO JUAN was a manager in the human trafficking organization. In or around March 2013, after CASTILLO-SERRANO returned to Guatemala, PEDRO JUAN took over CASTILLO-SERRANO's duties at the Trailers, including collecting the victims' paychecks.

26. CONRADO SALGADO SOTO was a member of the human trafficking organization responsible for managing the victims' employment. SALGADO SOTO, or a company privately held by him, contracted to provide workers to Trillium Farms, an egg farm with multiple locations in the Northern District of Ohio. He supervised the victims' labor and transported the victims to and from work.

Office of Refugee Resettlement Sponsor Care Program

27. The Office of Refugee Resettlement ("ORR") is an office within the U.S. Department of Health and Human Services. One of the responsibilities of ORR is to protect the welfare of unaccompanied minor children who are not legally present in the United States and help them transition to the care and custody of a qualified adult sponsor.

28. Potential adult sponsors must complete form 0970-0278, the Family Reunification Application ("the Application"), and submit it to ORR before a minor will be released to the

sponsor's custody. The Application requires the potential sponsor to affirm that the information contained in the application is true and accurate. The Application also requires the applicant to affirm that the sponsor will abide by the terms of the "Sponsor Care Agreement," including, but not limited to, providing for "the physical and mental well-being of the minor ... including enrolling the minor in school; providing medical care when needed; protecting the minor from abuse, neglect, and abandonment."

COUNT 1
(Forced Labor Conspiracy – 18 U.S.C. § 1594)

The Grand Jury further charges:

29. The allegations set forth in paragraphs 1 through 28 are re-alleged and incorporated by reference in this count, as though fully restated herein.

30. Beginning in or around January 2011, and continuing through on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, and CONRADO SALGADO SOTO, did knowingly and intentionally combine, confederate, conspire and agree with each other, and others known and unknown to the Grand Jury, to commit offenses against the United States, as set forth in 18 U.S.C.§ 1589, specifically:

31. To provide and obtain, and attempt to provide and obtain, the labor and services of ten victims, nationals of Guatemala, identified herein as Victims 1 through 10, whose identities are known to the Grand Jury, by means of:

a. force, threats of force, physical restraint, and threats of physical restraint to the victims and other persons;

b. serious harm and threats of serious harm to the victims and other persons;

c. the abuse and threatened abuse of law and legal process; and

d. a scheme, plan, and pattern intended to cause the victims to believe that, if that they did not perform such labor or services, they and other persons would suffer serious harm or physical restraint.

32. To knowingly benefit, financially and by receiving anything of value, from participation in the venture outlined above, knowing and in reckless disregard of the fact that the venture has engaged in the providing and obtaining of labor or services by the above means.

MANNER AND MEANS OF THE CONSPIRACY

33. It was part of the conspiracy that the Defendants, AROLDO RIGOBERTO CASTILLO-SERRANO, ANA ANGELICA PEDRO JUAN, and CONRADO SALGADO SOTO, together with others known and unknown to the Grand Jury, targeted and recruited Guatemalan nationals for smuggling into the United States to work as agricultural laborers.

34. It was part of the conspiracy that, starting in or around March 2014, the Defendants focused their recruitment efforts on individuals under the age of 18, believing them to be easier to bring successfully into the country, easier to control, and harder workers.

35. It was part of the conspiracy that the Defendants obtained deeds to real property from the victims' families to secure the victims' debts for being smuggled into the United States, and that the Defendants retained the deeds to those properties if any portion of the smuggling debts were unpaid or any dispute between the parties remained.

36. It was part of the conspiracy that the Defendants, together with others known and unknown to the Grand Jury, brought the identified victims and others to the United States illegally.

37. It was part of the conspiracy that Defendant CASTILLO-SERRANO enticed some of the minor victims to illegally enter the United States by falsely representing that they would be able to attend school once they arrived in the United States.

38. It was part of the conspiracy that the Defendants, along with others known and unknown to the Grand Jury, submitted false and fraudulent Applications to ORR in which they represented themselves and their associates to immigration officials as the minor victims' relatives and family friends, in order to have the minor victims released to the Defendants' custody. In doing so, the Defendants and their associates affirmed that the victims would go to school and be protected from abuse.

39. It was part of the conspiracy that the Defendants compelled the victims to live in trailers owned or controlled by Defendants CASTILLO-SERRANO and PEDRO JUAN and other conspirators known and unknown to the Grand Jury, in order to keep the victims under the Defendants' control, to isolate them from others, and to force them to pay more money to Defendants and their co-conspirators in the form of rent, in addition to their smuggling debts.

40. It was part of the conspiracy that the Trailers were often in substandard conditions, and that the threat of living in substandard trailers was used by the Defendants to control the victims.

41. It was part of the conspiracy that the Defendants directed victims to work at one of Trillium's farms in the Marion, Ohio, area, and other locations, under the supervision of Defendants SALGADO SOTO, PABLO DURAN JR., along with Bartolo Dominguez and others known and unknown to the Grand Jury.

42. It was part of the conspiracy that the minor victims and some adult victims did not receive paychecks or full cash equivalents for their labor, but instead that SALGADO SOTO

delivered their paychecks directly to PEDRO JUAN, who transferred them to CASTILLO-SERRANO and his associates.

43. It was part of the conspiracy that the minor victims were given only small amounts of money for their food and other needs, and that Defendants refused the minors' requests to obtain more of their paychecks.

44. It was part of the conspiracy that the victims were not given receipts for their smuggling debt payments or any accounting of their remaining smuggling debts.

45. It was part of the conspiracy that Defendant CASTILLO-SERRANO manipulated the smuggling debts of some victims by, among other means, not telling the victims what their smuggling debts would be until after they incurred it and, later, unilaterally increasing victims' smuggling debts beyond what had initially been agreed to.

46. It was part of the conspiracy that Defendants CASTILLO-SERRANO, PEDRO JUAN, and others known and unknown to the Grand Jury, threatened the victims and their family members with physical harm, including death, if they did not continue to work and surrender their paychecks.

47. It was part of the conspiracy that Defendant PEDRO JUAN hit a victim when he indicated he did not want to surrender his paycheck to her.

48. It was part of the conspiracy that the Defendants benefitted financially, and by receiving anything of value, from participating in the venture.

49. It was part of the conspiracy that the Defendants used a combination of threats, humiliation, deprivation, financial coercion, debt manipulation, and monitoring to establish a pattern of domination and control over the victims, to create a climate of a fear and helplessness that would compel their compliance with the conspirators' orders, and to isolate them from

anyone who might intervene to protect them from the conspirators and expose the conspirators' unlawful acts.

ACTS IN FURTHERANCE OF THE CONSPIRACY

50. In furtherance of the conspiracy, and to accomplish the objects of the conspiracy, the Defendants committed and caused to be committed the following acts, among others, in the Northern District of Ohio, Western Division, and elsewhere:

Victim 1

51. In or around November 2011, CASTILLO-SERRANO recruited and enticed Victim 1 to illegally travel to the United States. CASTILLO-SERRANO represented to Victim 1 that the transportation and smuggling fees would be loaned by CASTILLO-SERRANO, which Victim 1 would repay through agricultural work. CASTILLO-SERRANO asked for and received a deed belonging to Victim 1's father to secure the smuggling debt. An associate of CASTILLO-SERRANO delivered Victim 1 to the Trailers. CASTILLO-SERRANO informed Victim 1, after Victim 1's arrival in Ohio, that Victim 1 owed him $16,000. CASTILLO-SERRANO directed Victim 1 to live at the Trailers.

52. Between in or around November 2011 and in or around December 2013, CASTILLO-SERRANO informed Victim 1 repeatedly that he was required to work at the egg farms until he repaid his smuggling debt. CASTILLO-SERRANO collected all of Victim 1's paychecks from him. CASTILLO-SERRANO regularly required Victim 1 to work six or seven days a week, twelve hours per day, including times when Victim 1 was injured.

53. Starting in or around 2013, when CASTILLO-SERRANO returned to Guatemala, PEDRO JUAN assumed responsibility for collecting Victim 1's paychecks.

54. Between in or around November 2011, and in or around December 2013, CASTILLO-SERRANO threatened to kill Victim 1 and other workers if they said they would not work at one of the farms. CASTILLO-SERRANO threatened to kill his family in Guatemala and told Victim 1 that he (CASTILLO-SERRANO) had people in Guatemala who could assault others at his command.

55. Between in or around November 2011, and in or around December 2013, ANA ANGELICA PEDRO JUAN reported on the activities of Victim 1 and others to CASTILLO-SERRANO. Victim 1 and others complained to PEDRO JUAN that they did not have enough money for food, but PEDRO JUAN continued to withhold their paychecks.

56. Between in or around November 2011, and in or around December 2013, SALGADO SOTO drove Victim 1 to work and supervised him there. SALGADO SOTO knew that Victim 1 was being forced to work and surrender his entire paychecks to CASTILLO-SERRANO and PEDRO JUAN.

Victim 2

57. In or around June 2014, CASTILLO-SERRANO recruited Victim 2, a minor, to illegally travel to the United States. CASTILLO-SERRANO enticed Victim 2 by telling him that he would be permitted to attend school in the United States.

58. On or about August 23, 2014, CASTILLO-SERRANO arranged to have an associate falsely represent himself to immigration officials as Victim 2's family friend and submit a fraudulent Family Reunification Application to ORR in order to have Victim 2 released to Defendants' associate. Once Victim 2 was released from immigration custody, CASTILLO-SERRANO and PEDRO JUAN required him to live at the Trailers and regularly work under SALGADO SOTO.

59. Between in or about August 2014, and on or about December 17, 2014, the Defendants regularly required Victim 2, a minor, to do physically demanding work for six or seven days a week, twelve hours per day. SALGADO SOTO withheld the paychecks of Victim 2, giving them directly to PEDRO JUAN. PEDRO JUAN withheld Victim 2's paychecks from him, giving him only small amounts of money for food and necessities.

60. On multiple dates between in or about June 2014, and in or about December 17, 2014, PEDRO JUAN denied requests from Victim 2 that he be given more or all of his wages.

Victim 3

61. In or about June 2014, CASTILLO-SERRANO recruited Victim 3, a minor, to illegally travel to the United States. CASTILLO-SERRANO enticed Victim 3 by telling him that he would be permitted to attend school in the United States. CASTILLO-SERRANO asked for and received a deed belonging to Victim 3's uncle to secure the smuggling debt.

62. On or about September 18, 2014, CASTILLO-SERRANO arranged to have an associate falsely represent himself to immigration officials as Victim 3's family friend and submit a fraudulent Family Reunification Application to ORR in order to have Victim 3 released to Defendants' associate. Once Victim 3 was released from immigration custody, CASTILLO-SERRANO and PEDRO JUAN required him to live at the Trailers and work at the egg farm under PABLO DURAN, JR. and other contractors associated with the Defendants.

63. Between in or about June 2014, and on or about December 17, 2014, the Defendants regularly required Victim 3 to do physically demanding work for six or seven days a week, twelve hours per day.

64. Between in or about June 2014, and on or about December 17, 2014, PABLO DURAN JR. and others associated with the Defendants withheld Victim 3's paychecks by giving

them directly to PEDRO JUAN. PEDRO JUAN withheld Victim 3's paychecks from him, giving him only small amounts of money for food and necessities.

65. In or around fall 2014, the exact date unknown, Victim 3 contacted CASTILLO-SERRANO on the telephone and complained to CASTILLO-SERRANO about the work at the egg farm. In response, CASTILLO-SERRANO degraded and demeaned Victim 3, calling him humiliating names and telling him that he was required to work for CASTILLO-SERRANO. Shortly after this conversation, CASTILLO-SERRANO and PEDRO JUAN moved Victim 3 to a trailer that was unsanitary and unsafe, with no bed, no heat, no hot water, no working toilets, and vermin.

66. In or around the fall of 2014, the exact date unknown, but on the same date that Victim 3 complained to CASTILLO-SERRANO, CASTILLO-SERRANO called Victim 3's father in Guatemala and told Victim 3's father that he would shoot Victim 3's father in the head if Victim 3 did not continue to work for him.

Victim 4

67. In or around mid-2014, CASTILLO-SERRANO recruited Victim 4, a minor, to illegally travel to the United States. CASTILLO-SERRANO asked for and received a deed belonging to Victim 4's mother to secure the smuggling debt.

68. On or about August 5, 2014, CASTILLO-SERRANO arranged to have an associate falsely represent himself to immigration officials as Victim 4's family friend and submit a fraudulent Family Reunification Application to ORR in order to have Victim 4 released to Defendants' associate. Once Victim 4 was released from immigration custody, CASTILLO-SERRANO and PEDRO JUAN required him to live at the Trailers and work under SALGADO SOTO.

69. Between on or about August 5, 2014, and on or about December 17, 2014, the Defendants regularly required Victim 4 to do physically demanding work for six or seven days a week, twelve hours per day. SALGADO SOTO withheld Victim 4's paychecks by giving them directly to PEDRO JUAN. PEDRO JUAN withheld Victim 4's paychecks from him, giving him only small amounts of money for food and necessities.

Victim 5

70. In or around mid-2014, CASTILLO-SERRANO recruited Victim 5, a minor, to illegally travel to the United States. CASTILLO-SERRANO asked for and received a deed belonging to Victim 5's father to secure the smuggling debt.

71. On or about August 16, 2014, CASTILLO-SERRANO arranged to have an associate falsely represent himself to immigration officials as Victim 5's family friend and submit a fraudulent Family Reunification Application to ORR in order to have Victim 5 released to Defendants' associate. Once Victim 5 was released from immigration custody, CASTILLO-SERRANO and PEDRO JUAN required him to live at the Trailers and work under SALGADO SOTO.

72. Between in or about August 2014, and on or about December 17, 2014, the Defendants regularly required Victim 5 to do physically demanding work for six or seven days a week, twelve hours per day.

73. Between in or about August 2014, and on or about December 17, 2014, SALGADO SOTO, and others associated with the Defendants, withheld Victim 5's paychecks by giving them directly to PEDRO JUAN. PEDRO JUAN withheld Victim 5's paychecks from him, giving him only small amounts of money for food and necessities.

74. In or around fall 2014, the exact date unknown, Victim 5 contacted CASTILLO-SERRANO on the telephone and requested additional money from his paychecks to send to his mother in Guatemala, who was ill. CASTILLO-SERRANO denied Victim 5's request for his earnings and threatened to harm Victim 5's family if Victim 5 disobeyed CASTILLO-SERRANO's orders.

Victim 6

75. In or around mid-2014, CASTILLO-SERRANO recruited Victim 6, a minor, to illegally travel to the United States. CASTILLO-SERRANO asked for and received a deed belonging to Victim 6's father to secure the smuggling debt.

76. On or about July 24, 2014, CASTILLO-SERRANO arranged to have PEDRO JUAN falsely represent herself to immigration officials as Victim 6's family friend and submit a fraudulent Family Reunification Application to ORR in order to have Victim 6 released to PEDRO JUAN's custody. Once Victim 6 was released from immigration custody, CASTILLO-SERRANO and PEDRO JUAN required him to live at the Trailers and work under SALGADO SOTO.

77. Between in or about August 2014, and on or about December 17, 2014, the Defendants regularly required Victim 6 to do physically demanding work for six or seven days a week, ten hours per day.

78. Between in or about August 2014, and on or about December 17, 2014, Victim 6 suffered injuries due to the physically demanding work the Defendants required Victim 6 to perform.

79. Between in or about August 2014, and on or about December 17, 2014, SALGADO SOTO, and other contractors affiliated with the Defendants, withheld Victim 6's

paychecks by giving them directly to PEDRO JUAN. PEDRO JUAN withheld Victim 6's paychecks from him, giving him only small amounts of money for food and necessities.

80. In or around fall 2014, the exact date unknown, PEDRO JUAN hit Victim 6 when Victim 6 told her he did not want to give PEDRO JUAN his paychecks.

Victim 7

81. In or about January 2011, CASTILLO-SERRANO recruited Victim 7 to illegally travel to the United States. Victim 7's mother secured his $15,000 smuggling debt to CASTILLO-SERRANO by assigning CASTILLO-SERRANO the deed to her land.

82. Between approximately February 2011 and December 17, 2014, the Defendants required Victim 7 to live in the Trailers, including a trailer without heat or running water.

83. Between approximately February 2011 and December 2014, the Defendants regularly required Victim 7 to work under SALGADO SOTO and Bartolo Dominguez to repay his smuggling debt.

84. Between approximately February 2011 and December 2014, the Defendants only provided Victim 7 with small portions of his paychecks.

85. In or around 2012, the exact date unknown, but after Victim 7 had paid CASTILLO-SERRANO $15,000, the amount CASTILLO-SERRANO initially told Victim 7 he owed for his smuggling fees, CASTILLO-SERRANO told Victim 7, for the first time, that his smuggling debt was actually greater than $15,000 and that Victim 7 would have to continue to work and pay CASTILLO-SERRANO or else Victim 7's mother would lose her land.

Victim 8

86. In or about June 2014, CASTILLO-SERRANO recruited Victim 8, a minor, to illegally travel to the United States.

87. Between in or about June 2014, and on or about December 17, 2014, the Defendants regularly required Victim 8 to do physically demanding work for six or seven days a week, twelve hours per day.

88. Between approximately June 2014 and December 17, 2014, PABLO DURAN, JR. and other contractors associated with the Defendants, withheld Victim 8's paychecks by giving them directly to PEDRO JUAN. PEDRO JUAN withheld Victim 8's paychecks from him, giving him only small amounts of money for food and necessities.

Victim 9

89. In or about April 2014, CASTILLO-SERRANO recruited Victim 9, a minor, to illegally travel to the United States.

90. On or about June 6, 2014, CASTILLO-SERRANO arranged to have an associate falsely represent himself to immigration officials as Victim 9's family friend and submit a fraudulent Family Reunification Application to ORR in order to have Victim 9 released to Defendants' associate. Once Victim 9 was released from immigration custody, CASTILLO-SERRANO and PEDRO JUAN required him to live at the Trailers and work under SALGADO SOTO.

91. M.C.G., an agent working at the direction of Defendants CASTILLO-SERRANO and PEDRO JUAN, told Victim 9 he was not permitted to leave the Trailers. M.C.G. threatened and demeaned Victim 9 and told him that he (M.C.G.) was reporting all of the minors' activities to CASTILLO-SERRANO.

92. Between in or about June 2014, and on or about December 17, 2014, the Defendants regularly required Victim 9 to do physically demanding work for six or seven days a week, twelve hours per day.

93. Between in or about June 2014, and on or about December 17, 2014, SALGADO SOTO withheld Victim 9's paychecks by giving them directly to PEDRO JUAN. PEDRO JUAN withheld Victim 9's paychecks from him, giving him only small amounts of money for food and necessities.

Victim 10

94. In or around mid-2013, CASTILLO-SERRANO recruited Victim 10, a minor, to illegally travel to the United States. Victim 10's mother assigned CASTILLO-SERRANO the deeds to her land as collateral for Victim 10's smuggling debt.

95. In or around late mid-2013, CASTILLO-SERRANO told Victim 10's mother that if Victim 10 did not work to repay his smuggling debt, CASTILLO-SERRANO would kill Victim 10 and his mother.

96. On or about November 19, 2013, Victim 10 was brought to the trailers and told by the Defendants he had to work at the egg farms and surrender his paychecks to PEDRO JUAN. After Victim 10 entered his assigned trailer and saw that it was dilapidated and did not have heat, Victim 10 called an associate of his family and asked to be picked up from the Trailers.

Witness Tampering and False Statements

97. On or about December 18, 2014, PEDRO JUAN and CASTILLO-SERRANO agreed in a telephone call that PEDRO JUAN would mislead and lie to the FBI by telling them, among other things, that she did not know CASTILLO-SERRANO, that she only sent money to Guatemala as a favor to the victims, and that the victims received their full wages. They also

agreed that PEDRO JUAN would advise M.C.G. to give false, incomplete, and misleading information to the FBI.

98. In or around December 2014 or January 2015, PEDRO JUAN advised M.C.G. to give false, incomplete, and misleading information to the FBI, specifically to deny that he knew anything about the venture.

99. On or about December 23, 2014, Defendant PEDRO JUAN gave materially false, incomplete, and misleading information to an agent of the FBI by saying, among other things, that she did not have first-hand knowledge of CASTILLO-SERRANO's smuggling activities, that she did not withhold victims' wages from them, that she did not send victims' wages to Guatemalan accounts at CASTILLO-SERRANO's behest, that she did not have a close relationship with CASTILLO-SERRANO, that she was not in contact with CASTILLO-SERRANO, that she did not know where CASTILLO-SERRANO was, and that she did not advise M.C.G. to lie to the FBI.

All in violation of Title 18, United States Codes, Section 1594(b).

COUNT 2
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

100. The allegations set forth in paragraphs 1 through 28 and 33 through 56 are re-alleged and incorporated by reference in this count, as though fully restated herein.

101. Beginning in or about July 2011, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, and CONRADO SALGADO SOTO, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 1, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 1, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 1 and other persons; by means of serious harm and threats of serious harm to Victim 1 and other persons; by means of the abuse and threatened abuse of law and legal process; and by means of a scheme, plan, and pattern intended to cause Victim 1 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a) and (b), and 2.

COUNT 3
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

102. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 57 through 60 are re-alleged and incorporated by reference in this count, as though fully restated herein.

103. Beginning in or about June 2014, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, and CONRADO SALGADO SOTO, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 2, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 2, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 2 and other persons; by means of serious harm and threats of serious harm to Victim 2 and other persons; by means of the abuse and threatened abuse of law or legal process; and by means of a scheme, plan, and pattern intended to cause Victim 2 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a) and (b), and 2.

COUNT 4
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

104. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 61 through 66 are re-alleged and incorporated by reference in this count, as though fully restated herein.

105. Beginning in or about June 2014, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS and ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 3, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 3, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 3 and other persons; by means of serious harm and threats of serious harm to Victim 3 and other persons; by means of the abuse and threatened abuse of law and legal process; and by means of a scheme, plan, and pattern intended to cause Victim 3 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a), 1589(b), and 2.

COUNT 5
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

106. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 67 through 69 are re-alleged and incorporated by reference in this count, as though fully restated herein.

107. Beginning in or about June 2014, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, and CONRADO SALGADO SOTO, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 4, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 4, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 4 and other persons; by means of serious harm and threats of serious harm to Victim 4 and other persons; by means of the abuse and threatened abuse of law or legal process; and by means of a scheme, plan, and pattern intended to cause Victim 4 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a) and (b), and 2.

COUNT 6
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

108. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 70 through 74 are re-alleged and incorporated by reference in this count, as though fully restated herein.

109. Beginning in or about June 2014, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, and CONRADO SALGADO SOTO, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 5, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 5, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 5 and other persons; by means of serious harm and threats of serious harm to Victim 5 and other persons; by means of the abuse and threatened abuse of law or legal process; and by means of a scheme, plan, and pattern intended to cause Victim 5 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a) and (b), and 2.

COUNT 7
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

110. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 75 through 80 are re-alleged and incorporated by reference in this count, as though fully restated herein.

111. Beginning in or about June 2014, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, and CONRADO SALGADO SOTO, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 6, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 6, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 6 and other persons; by means of serious harm and threats of serious harm to Victim 6 and other persons; by means of the abuse and threatened abuse of law or legal process; and by means of a scheme, plan, and pattern intended to cause Victim 6 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a) and (b), and 2.

COUNT 8
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

112. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 81 through 85 are re-alleged and incorporated by reference in this count, as though fully restated herein.

113. Beginning in or about January 2011, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS and CONRADO SALGADO SOTO, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 7, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 7, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 7 and other persons; by means of serious harm and threats of serious harm to Victim 7 and other persons; by means of the abuse and threatened abuse of law or legal process; and by means of a scheme, plan, and pattern intended to cause Victim 7 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a) and (b), and 2.

COUNT 9
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

114. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 86 through 88 are re-alleged and incorporated by reference in this count, as though fully restated herein.

115. Beginning in or about June 2014, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS and ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 8, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 8, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 8 and other persons; by means of serious harm and threats of serious harm to Victim 8 and other persons; by means of the abuse and threatened abuse of law or legal process; and by means of a scheme, plan, and pattern intended to cause Victim 8 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a) and (b), and 2.

COUNT 10
(Forced Labor – 18 U.S.C. § 1589)

The Grand Jury further charges:

116. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 89 through 93 are re-alleged and incorporated by reference in this count, as though fully restated herein.

117. Beginning in or about June 2014, and continuing to on or about December 17, 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS, ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, and CONRADO SALGADO SOTO, aiding and abetting each other, did knowingly provide and obtain the labor and services of Victim 9, and knowingly benefitted, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 9, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 9 and other persons; by means of serious harm and threats of serious harm to Victim 9 and other persons; by means of the abuse and threatened abuse of law or legal process; and by means of a scheme, plan, and pattern intended to cause Victim 9 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1589(a) and (b), and 2.

COUNT 11
(Attempted Forced Labor – 18 U.S.C. § 1594(a))

The Grand Jury further charges:

118. The allegations set forth in paragraphs 1 through 28, 33 through 50, and 94 through 96 are re-alleged and incorporated by reference in this count, as though fully restated herein.

119. From in or about April 2013, to in or about November 2013, in the Northern District of Ohio, Western Division, and elsewhere, Defendants AROLDO RIGOBERTO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS and CONRADO SALGADO SOTO, aiding and abetting each other, knowingly attempted to provide and obtain the labor and services of Victim 10, and knowingly attempted to benefit, financially and by receiving anything of value, from participation in a venture which provided and obtained the labor and services of Victim 10, knowing and in reckless disregard of the fact that the labor and services were obtained by means of force, threats of force, physical restraint, and threats of physical restraint to Victim 10 and other persons; by means of serious harm and threats of serious harm to Victim 10 and other persons; by means of the abuse and threatened abuse of law or legal process; and by means of a scheme, plan, and pattern intended to cause Victim 10 to believe that, if he did not perform such labor or services, he and other persons would suffer serious harm or physical restraint.

In violation of Title 18, United States Code, Sections 1594(a) and 2.

COUNT 12
(Witness Tampering – 18 U.S.C. §§ 1512(b)(3))

The Grand Jury further charges:

120. The allegations set forth in paragraphs 1 through 28 and 33 through 99 are re-alleged and incorporated by reference in this count, as though fully restated herein.

121. In or about December 2014, in the Northern District of Ohio, Western Division, and elsewhere, defendants AROLDO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS and ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, along with others known and unknown to the Grand Jury, did knowingly intimidate and corruptly persuade M.C.G., and attempt to do so, with the intent to hinder, delay, and prevent the communication to a federal law enforcement officer of information relating to the commission or possible commission of a federal offense. Specifically, after discussing the federal investigation with CASTILLO-SERRANO, and M.C.G.'s knowledge of same, PEDRO JUAN asked and told M.C.G. not to report to law enforcement information about the conspiracy, forced labor, and harboring offenses committed by Defendants.

In violation of Title 18, United States Code, Sections 1512(b)(3) and 2.

COUNT 13
(False Statements – 18 U.S.C. § 1001(a)(2))

The Grand Jury further charges:

122. The allegations set forth in paragraphs 1 through 28 and 33 through 99 are re-alleged and incorporated by reference in this count, as though fully restated herein.

123. In or about December 2014, in the Northern District of Ohio, Western Division, and elsewhere, Defendant ANA ANGELICA PEDRO JUAN aka JUANITA aka ERICA MAISONET, in a matter within the jurisdiction of the executive branch of the Government of the United States, did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, in that Defendant PEDRO JUAN represented to an agent of the Federal Bureau of Investigation, which is an agency of the executive branch of the federal government, that that she did not have first-hand knowledge of CASTILLO-SERRANO's smuggling activities, that she did not withhold victims' wages from them, that she did not send victims' wages to Guatemalan accounts at CASTILLO-SERRANO's behest, that she did not have a close relationship with CASTILLO-SERRANO, that she was not in contact with CASTILLO-SERRANO, that she did not know where CASTILLO-SERRANO was, and that she did not advise M.C.G. to lie to the FBI.

In violation of Title 18, United States Code, Section 1001(a)(2).

COUNT 14
(Encouraging Illegal Entry – 8 U.S.C. § 1324(a))

The Grand Jury further charges:

124. The allegations set forth in paragraphs 1 through 28 and 33 through 99 re-alleged and incorporated by reference in this count, as though fully restated herein.

125. In or about September 2014, in the Northern District of Ohio, Western Division, and elsewhere, AROLDO CASTILLO-SERRANO aka BRUNO LOPEZ-ZALAS and CONRADO SALGADO SOTO, aiding and abetting each other, along with others known and unknown to the Grand Jury, encouraged and induced an alien, namely Victims 2, 3, 4, 5, 6, and 9, all minors, to come to, enter, and reside in the United States, knowingly and in reckless disregard of the fact that the victims' coming to, entry, and residence in the United States was in violation of law. The Defendants' acts were for the purpose of commercial advantage and private financial gain and part of an ongoing commercial organization and enterprise.

In violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iv), 1324(a)(1)(A)(v)(II), 1324(a)(1)(B)(i), and 1324(a)(4)(A).

COUNT 15
(Harboring an Illegal Alien – 8 U.S.C. § 1324(a))

The Grand Jury further charges:

126. The allegations set forth in paragraphs 1 through 28 and 33 through 99 are re-alleged and incorporated by reference in this count, as though fully restated herein.

127. From in or about July 2013, to in or about December 2014, in the Northern District of Ohio, Western Division, and elsewhere, defendants CONRADO SALGADO SOTO and PABLO DURAN, JR., along with Bartolo Dominguez, Conrado Salgado-Borban, and other persons known and unknown to the Grand Jury, knowingly and in reckless disregard of the fact that an alien had come to, entered, and remained in the United States in violation of law, transported and moved an alien within the United States by means of transportation, in furtherance of such violation of law and for the purpose of commercial advantage and private financial gain and as part of an ongoing commercial organization and enterprise, to wit: CONRADO SALGADO SOTO and PABLO DURAN, JR., drove a number of Guatemalan aliens, including Victim 3 (a minor), Victim 8 (a minor), and M.C.G. (a minor) from Marion, Ohio, to egg farms in Croton, Mount Victory, Goshen, and LaRue, Ohio, where the aliens were working, and then back to Marion, Ohio at the end of the aliens' work shift.

In violation of Title 8, United States Code, Sections 1324(a)(1)(A)(ii), 1324(a)(1)(B)(i), and 1324(a)(4)(A).

A TRUE BILL.

Original document - Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Refugee, Asylum and International Operations Directorate
Washington, DC 20529-2100

U.S. Citizenship and Immigration Services

HQRAIO 120/12a

Memorandum

MAY 28 2013

TO: All Asylum Office Staff

FROM: Ted Kim
Acting Chief, Asylum Division

SUBJECT: Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children

I. Purpose

This memorandum provides updated guidance and procedures to U.S. Citizenship and Immigration Services (USCIS) Asylum Offices on determining jurisdiction in applications for asylum filed by unaccompanied alien children (UACs) under the initial jurisdiction provision of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Public Law 110-457, which was signed into law on December 23, 2008, and became effective on March 23, 2009. These procedures modify the current procedures found in Section III.C of the March 25, 2009, memorandum *Implementation of Statutory Change Providing USCIS with Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children*. These procedures are effective on June 10, 2013, and apply to any USCIS decision issued on or after that date. These updated procedures will be incorporated into the Affirmative Asylum Procedures Manual. The decision letters used by Asylum Offices in UAC cases will not change with the exception of the UAC Decision Notice for Non-Eligibility (updated version attached). All Asylum Offices will receive train-the-trainer instruction from Headquarters and are responsible for conducting field training prior to June 10.

II. Determination as to whether the applicant is a UAC

USCIS typically does not have jurisdiction to accept a Form I-589, *Application for Asylum and for Withholding of Removal*, filed by an applicant in removal proceedings. Section 235(d)(7)(B) of the TVPRA, however, places initial jurisdiction of asylum applications filed by UACs with USCIS, even for those UACs in removal proceedings. Therefore, USCIS must determine whether an applicant in removal proceedings is a UAC.

Prior to the issuance of this guidance, Asylum Offices made independent factual inquiries under the UAC definition to support their determinations of UAC status, which was assessed at the time of the UAC's filing of the asylum application. In most of these cases another Department of Homeland Security entity, either U.S. Customs and Border Protection (CBP) or U.S. Immigration and Customs Enforcement (ICE), had already made a determination of UAC status after apprehension, as required for the purpose of placing the individual

in the appropriate custodial setting. Effective June 10, in those cases in which either CBP or ICE has already made a determination that the applicant is a UAC, and that status determination was still in place on the date the asylum application was filed, Asylum Offices will adopt that determination without another factual inquiry. Unless there was an affirmative act by HHS, ICE or CBP to terminate the UAC finding before the applicant filed the initial application for asylum, Asylum Offices will adopt the previous DHS determination that the applicant was a UAC. In cases in which a determination of UAC status has not already been made, Asylum Offices will continue to make determinations of UAC status per current guidance.

A. Cases in which a determination of UAC status has already been made

In cases in which CBP or ICE has already determined that the applicant is a UAC, Asylum Offices will adopt that determination and take jurisdiction over the case. Asylum Offices will see evidence of these prior UAC determinations in A-files or in systems on the Form I-213, *Record of Deportable Alien*; the Form 93 (the CBP UAC screening form); the Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) Initial Placement Form[1]; the ORR Verification of Release Form; and the encounters tab in the ENFORCE Alien Removal Module (EARM) (see attached samples). In these cases the Asylum Office will no longer need to question the applicant regarding his or her age and whether he or she is accompanied by a parent or legal guardian to determine UAC status. If CBP or ICE determined that the applicant was a UAC, and, as of the date of initial filing of the asylum application, that UAC status determination was still in place, USCIS will take initial jurisdiction over the case, even if there appears to be evidence that the applicant may have turned 18 years of age or may have reunited with a parent or legal guardian since the CBP or ICE determination. Generally, an Asylum Office should not expend resources to pursue inquiries into the correctness of the prior DHS determination that the applicant was a UAC.

Although Asylum Offices will no longer need to make independent factual inquiries about UAC status in cases in which another DHS entity has already determined the applicant to be a UAC, these cases will still receive headquarters quality assurance review as juveniles per the Quality Assurance Referral Sheet. Upon receiving headquarters concurrence, Asylum Offices should follow the guidance in the March 25, 2009, memorandum referenced above regarding handling the case upon entry of a final decision.

B. Cases in which a determination of UAC status has not already been made

1. UACs not in removal proceedings

For applicants not in removal proceedings who apply for asylum with USCIS via the affirmative asylum process, who have not been determined previously to be a UAC by CBP or ICE, and who appear to be UACs, Asylum Offices will continue to make UAC determinations not for the purpose of determining jurisdiction but for the purposes of determining whether the applicant is subject to the 1-year filing deadline[2] and whether the Asylum Office must notify HHS that it has discovered a UAC[3]. Asylum Offices should examine whether the applicant was a UAC at the time of filing the asylum application for purposes of determining whether the 1-year filing deadline applies and whether the applicant was a UAC at the time of the interview (i.e., when "discovery" takes place) for purposes of notifying HHS. Previously issued guidance on examining an applicant's age and unaccompanied status continue to apply to these determinations.

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[1] After apprehending an individual and determining that he or she is a UAC, CBP or ICE transfers him or her to a facility run by the Office of Refugee Resettlement (ORR), which is part of the Department of Health and Human Services (HHS).
[2] *See* section 235(d)(7)(A) of the TVPRA.
[3] *See* section 235(b)(2) of the TVPRA.

2. UACs in removal proceedings

For applicants in removal proceedings where CBP or ICE has not already made a determination that the applicant is a UAC,[4] Asylum Offices will need to make UAC determinations for the purpose of determining whether USCIS has jurisdiction over the case. Asylum Offices should examine whether the applicant was a UAC on the date of initial filing of the asylum application for the purpose of determining USCIS jurisdiction.

If the Asylum Office is the first federal government entity to make a determination that the individual is a UAC and the individual remains a UAC at the time of the asylum interview, then the Asylum Office will notify HHS that it has discovered a UAC. This obligation to notify HHS upon "discovery" of a UAC is separate from the issue of jurisdiction over the asylum application. Where another federal government entity has already made a UAC determination, that entity is the one that "discovered" the UAC, and it is not therefore USCIS's obligation to notify HHS in those cases. Previously issued guidance on examining an applicant's age and unaccompanied status continue to apply to these determinations.

III. Credible and reasonable fear screening processes

In the credible and reasonable fear screening processes Asylum Offices will generally accept CBP and ICE determinations that individuals were not UACs, unless the Asylum Office discovers evidence indicating that the individual is currently a UAC, in which case the Asylum Office will make a new determination of UAC status and communicate such determination to CBP or ICE as appropriate.[5] If the Asylum Office is the first federal government entity to make a determination that the individual is a UAC and the individual remains a UAC at the time of the credible fear or reasonable fear interview, then the Asylum Office will notify HHS that it has discovered a UAC.

If you have any questions concerning the guidance contained in this memorandum, please contact Kimberly Sicard at [redacted]

Attachments (9):

1. UAC Decision Notice for Non-Eligibility (updated decision letter; internal use only)
2. DHS UAC Instruction Sheet
3. Form I-213, *Record of Deportable Alien* (internal use only)
4. Form I-213, *Record of Deportable Alien* (internal use only)
5. Form 93, the CBP UAC Screening Form (internal use only)
6. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) Initial Placement Form (internal use only)

[4] This situation would most likely occur when a child was accompanied at the time of service of the charging document but later became unaccompanied. If the child appeared or claimed to be a UAC in immigration court and expressed an interest in applying for asylum, the ICE trial attorney would give the child a UAC Instruction Sheet so that the child could file an asylum application with USCIS. The Asylum Office would then need to make a determination of UAC status in order to determine whether USCIS has jurisdiction over the case. The ICE trial attorney giving the applicant the UAC Instruction Sheet does not constitute a determination by DHS of UAC status.

[5] Section 235(a)(5)(D) of the TVPRA provides that any UAC whom DHS seeks to remove, except for a UAC from a contiguous country subject to certain exceptions, shall be placed in removal proceedings; therefore, Asylum Offices generally should not encounter UACs in the credible and reasonable fear screening processes.

7. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) Verification of Release Form (internal use only)
8. Screen shot of the encounters tab in EARM (internal use only)
9. Screen shot of the encounters tab in EARM (internal use only)

From: Brandon, Cate (HHS/ASL) [redacted]
Sent: Friday, October 30, 2015 3:44 PM
To: Beras, Mel (HSGAC); Tucker, Rachael (HSGAC)
Cc: Barstow, Kevin (HHS/ASL)
Subject: today's production and a few follow ups

Hi Rachael and Mel,

We wanted to let you know that we expect to deliver the first tranche of sample documents by 5pm today.

Additionally, I wanted to provide you with the ORR org chart (attached) and information about the FFS regions:

South Texas	9 FFS
Central Texas	10 FFS
Northeast	12 FFS
Southeast	8 FFS
West	12 FFS
Total	51 FFS

Finally, I inquired about the 9 UCs referred to OTIP by BCFS. We should be able to get you the documents for at least the 7 referrals from the hotline by the end of next week. The two referrals for kids who were in ORR care may take a little longer, but ORR is working on it.

Have a great weekend!

Thanks,
Cate

Cate Brandon, J.D.
Senior Counsel
Oversight & Investigations
Office of the Assistant Secretary for Legislation
U.S. Department of Health and Human Services

[redacted]

From: Lewis, Megan S. (OLA) [redacted]
Sent: Friday, January 22, 2016 8:41 PM
To: Tucker, Rachael (HSGAC)
Cc: Owen, Matt (HSGAC); Beras, Mel (HSGAC); Williams, Elliot (OLA)
Subject: Re: EOIR follow up

All- wanted to follow up on this inquiry and provide the following info (please forgive any cut and paste format issues as I am doing this via iPhone):

4,165 terminations and 34 terminations under DHS's prosecutorial discretion initiative

5,640 administrative closures and 179 administrative closures under DHS's prosecutorial discretion initiative

UC, 07/18/14-12/15/15

Let us know if you have any questions.

Thanks,
Meg

On Jan 21, 2016, at 1:49 PM, Tucker, Rachael (HSGAC)
<[redacted] wrote:

Hi Meg,

Thanks for talking with us this morning. I'm writing to see if we can get some additional numbers for the same date range as below (7.18.2014-12.15.15). Can you get us EOIR stats for the number of UC cases that were terminated and the number of UC cases that were administratively closed over that time period? Let me know if you have any questions.

Thanks,

Rachael

From: Lewis, Megan S. (OLA) [redacted]
Sent: Wednesday, January 20, 2016 10:28 AM
To: Owen, Matt (HSGAC); Tucker, Rachael (H5GAC); Beras, Mel (HSGAC)
Cc: Williams, Elliot (OLA)
Subject: RE: EOIR follow up

Matt- following up on this inquiry, it is our understanding from EOIR that for the removal case type UC, for the same date range described in our letter (7/18/2014 – 12/15/2015), the numbers are as follows:

(a) 40,612 had a master hearing scheduled, the date for which has passed;
(b) There were 30,199 pending unaccompanied children cases; there were 5,355 pending adults with children - detained cases; there were 6,584 pending recent border crossers – detained cases.

Let us know if you have any questions; we are still working on your other follow up, and will let you know as soon as we have additional information.

Thanks,
Meg

Megan S. Lewis
U.S. Department of Justice
Office of Legislative Affairs
[redacted]

From: Owen, Matt (HSGAC) [redacted]
Sent: Thursday, January 14, 2016 2:29 PM
To: Williams, Elliot (OLA); Lewis, Megan S. (OLA)
Cc: Tucker, Rachael (HSGAC); Beras, Mel (HSGAC)
Subject: EOIR follow up

Elliot and Meg,

Thanks for setting up the very helpful call earlier today. Based on what Lauren said, can we get EOIR numbers (over the same time periods as DOJ's previous response) reflecting:

(a) The number of master calendar hearings held in UAC cases; and

(b) EOIR's pending caseload broken down by category (Lauren's phrase, so it sounds like she will know what that means).

Let me know when you can. Thanks,

Matt

FY 2015 Grantee	Grant number	Services
BCFS HHS Health and Human Services	90ZU0075	Post Release/Home Studies
Southwest Key Program, Inc.	90ZU0076	Post Release/Home Studies
U.S. Conference of Catholic Bishops	90ZU0077	Post Release/Home Studies
Florence Crittenton Services of Orange county, Inc.	90ZU0078	Post Release/Home Studies
The Children's Village, Inc.	90ZU0079	Post Release/Home Studies
Mercyfirst	90ZU0080	Post Release/Home Studies
U.S. Committee for Refugee and Immigrants	90ZU0081	Post Release/Home Studies
His House inc.	90ZU0082	Home Studies
Heartland Human Care Services, Inc.	90ZU0083	Post Release/Home Studies
Lutheran Immigration and Refugee Sevices	90ZU0084	Post Release/Home Studies
Shenandoah Valley Juvenile Detention Home	90ZU0085	Secure Shelter
Lincoln Hall	90ZU0086	Standard Shelter
St. Peter's St. Joseph's	90ZU0087	Standard Shelter, Transitional Foster Care
Lutheran Social Servcies of the South, Inc.	90ZU0088	Transitional Foster Care
Heartland Human Care Services, Inc.	90ZU0089	Standard Shelter, Staff Secure Shelter
United States Conference of Catholic Bishops	90ZU0090	Long Term Foster Care, Transitional Foster Care
A New Leaf	90ZU0091	Standard Shelter
County of Union New Jersey	90ZU0092	Secure Shelter
David & Margaret	90ZU0093	Standard Shelter
Florence Crittenton	90ZU0094	Standard Shelter, Long Term Foster Care
IES Driscoll/ San Benito	90ZU0095	Standard Shelter
Shiloh Treatment Center	90ZU0096	Residential Treatment Center
IES Hidalgo/Weslaco	90ZU0097	Transitional Foster Care
Catholic Charities Houston-Galveston	90ZU0098	Standard Shelter
IES Harlingen/ Harlingen II	90ZU0099	Transitional Foster Care
His House	90ZU0100	Standard Shelter
LSSS- Bokenkamp	90ZU0101	Standard Shelter
BCFS Health and Human Services	90ZU0102	Standard Shelter

Lutheran Immigrant and Refugee Services	90ZU0103	Long Term Foster Care, Transitional Foster Care
Juvenile Detention Commission of Northern VA	90ZU0104	Secure Shelter, Staff Secure Shelter
Youth Care	90ZU0105	Standard Shelter
Morrison Child and Family Services	90ZU0106	Standard Shelter, Staff Secure Shelter, Secure Shelter
Tumbleweed Center for Youth Development	90ZU0107	Standard Shelter
Kids Peace	90ZU0109	Standard Shelter, Long Term Foster Care
BCFS Health and Human Services	90ZU0110	Long Term Foster Care
Seton Home	90ZU0111	Standard Shelter
BCFS Health and Human Services	90ZU0112	Staff Secure Shelter
Youth For Tomorrow	90ZU0113	Standard Shelter
Yolo County	90ZU0114	Secure Shelter
Catholic Charities Boystown	90ZU0115	Standard Shelter
BCFS Health and Human Services	90ZU0116	Long Term Foster Care, Transitional Foster Care
IES Brownsville	90ZU0117	Transitional Foster Care
Children's Center	90ZU0118	Standard Shelter, Transitional Foster Care
IES Los Fresnos	90ZU0119	Standard Shelter
Cardinal McCloskey	90ZU0120	Standard Shelter
Mercy First	90ZU0121	Standard Shelter
Children's Home of Kingston	90ZU0122	Standard Shelter
Lutheran Social Services of Metropolitan New York	90ZU0123	Standard Shelter, Transitional Foster Care
Cayuga Home for Children DBA Cayuga Centers	90ZU0124	Transitional Foster Care
Catholic Guardian Services	90ZU0125	Standard Shelter
Neighbor To Family	90ZU0126	Transitional Foster Care
Board of Child Care	90ZU0127	Standard Shelter
Abbott House	90ZU0128	Standard Shelter
Children's Home of Poughkeepsie	90ZU0129	Standard Shelter
Gulf Coast Jewish Family and Community Services, Inc.	90ZU0130	Standard Shelter
United Methodist Home for Children Residential Care, Inc.	90ZU0131	Standard Shelter
Lutheran Social Servicesof Georgia	90ZU0132	Standard Shelter

Lakeside Community Committee	90ZU0133	Standard Shelter
Holy Family Institute	90ZU0134	Standard Shelter, Transitional Foster Care
New York Foundling Hospital	90ZU0135	Standard Shelter
Bethany Home, Inc (Helping Hands)	90ZU0136	Standard Shelter
The Children's Home, Inc.	90ZU0137	Standard Shelter
Noank Community Support Services, Inc	90ZU0138	Standard Shelter
Leake and Watts Services, Inc	90ZU0140	Standard Shelter, Transitional Foster Care
Nuevo Amanecer Latino Children's Services	90ZU0141	Transitional Foster Care
Rites of Passage, INC	90ZU0142	Standard Shelter
Lutheran Social Services of Michigan	90ZU0143	Standard Shelter
Urban Strategies LLC	90ZU0144	Standard Shelter
InWood House	90ZU0145	Standard Shelter
Children's Home Society of Florida	90ZU0146	Transitional Foster Care, Standard Shelter
Southwest Key	90ZU0148	Standard Shelter
Southwest Key	90ZU0149	Standard Shelter, Staff Secure Shelter
Friends of Youth	90ZU0150	Staff Secure Shelter, Long Term Foster Care
Pioneer	90ZU0151	Staff Secure Shelter
Sandy Pines	90ZU0152	Transitional Foster Care
Southwest Key	90ZU0153	Standard Shelter
Children's Village	90ZU0154	Standard Shelter, Staff Secure Shelter, Long Term Foster Care

FY 2016 Grantee	Grant number	Services
BCFS HHS Health and Human Services	90ZU0075	Post Release/Home Studies
Southwest Key Program, Inc.	90ZU0076	Post Release/Home Studies
U.S. Conference of Catholic Bishops	90ZU0077	Post Release/Home Studies
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United States Conference of Catholic Bishops	90ZU0090	Long Term Foster Care, Transitional Foster Care

A New Leaf	90ZU0091	Standard Shelter
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Yolo County	90ZU0114	Secure Shelter
Catholic Charities Boystown	90ZU011S	Standard Shelter
BCFS Health and Human Services	90ZU0116	Long Term Foster Care, Transitional Foster Care
IES Brownsville	90ZU0117	Transitional Foster Care
Children's Center	90ZU0118	Standard Shelter, Transitional Foster Care
IES Los Fresnos	90ZU0119	Standard Shelter

Cardinal McCloskey	90ZU0120	Standard Shelter
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Cayuga Home for Children DBA Cayuga Centers	90ZU0124	Transitional Foster Care
Southwest Key	90ZU0148	Standard Shelter
Southwest Key	90ZU0149	Standard Shelter, Staff Secure Shelter
Friends of Youth	90ZU0150	Staff Secure Shelter, Long Term Foster Care
Pioneer	90ZU0151	Staff Secure Shelter
Sandy Pines	90ZU0152	Transitional Foster Care
Southwest Key	90ZU0153	Standard Shelter
Children's Village	90ZU0154	Standard Shelter, Staff Secure Shelter, Long Term Foster Care

ORR OPERATIONS GUIDE:

CHILDREN ENTERING THE UNITED STATES UNACCOMPANIED

Section 1: Placement in ORR Care Provider Facilities

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1.1 REFERRALS TO ORR AND INITIAL PLACEMENT

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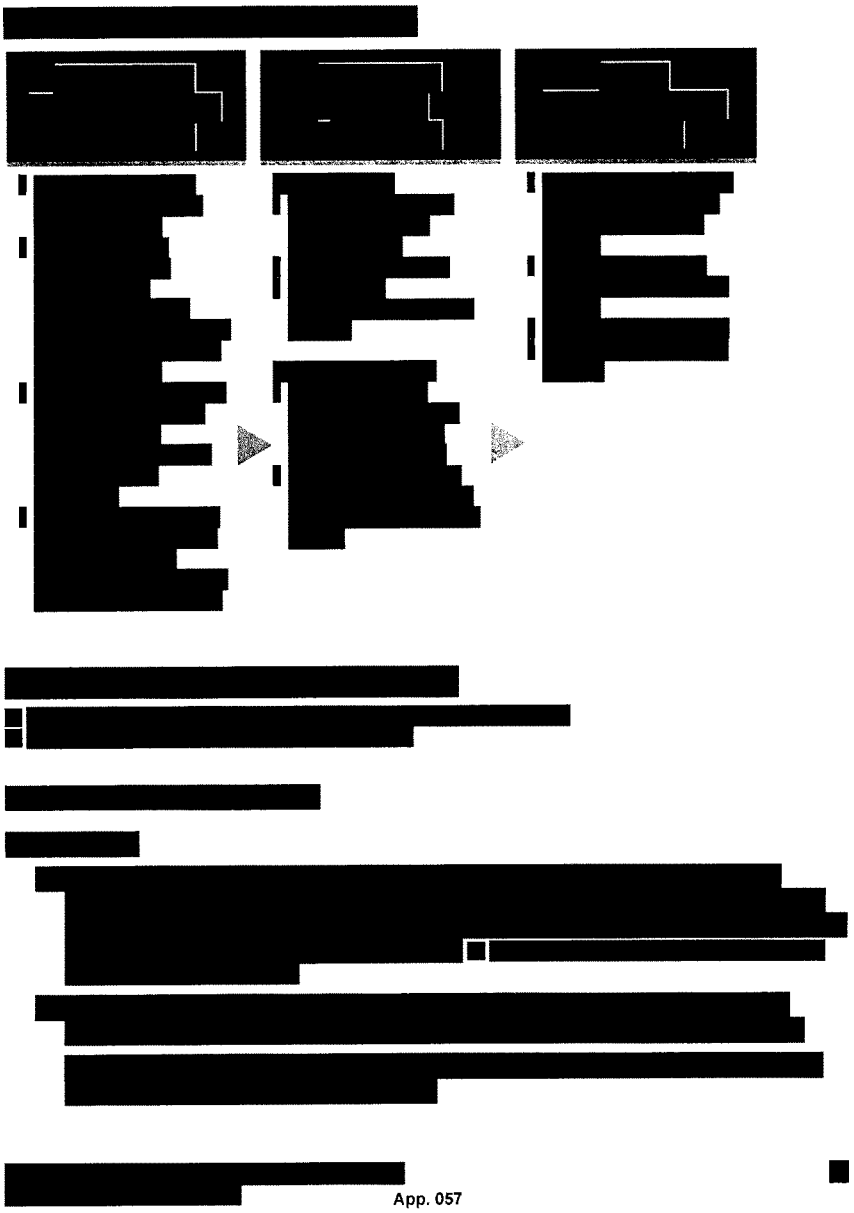

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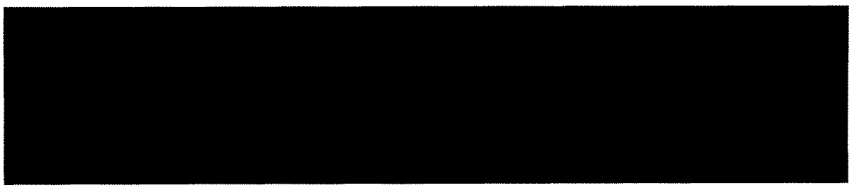

ORR OPERATIONS GUIDE:

CHILDREN ENTERING THE UNITED STATES UNACCOMPANIED

Section 2: Safe and Timely Release from ORR Care

Click HERE to link to Section 2 of the ORR Policy Guide.

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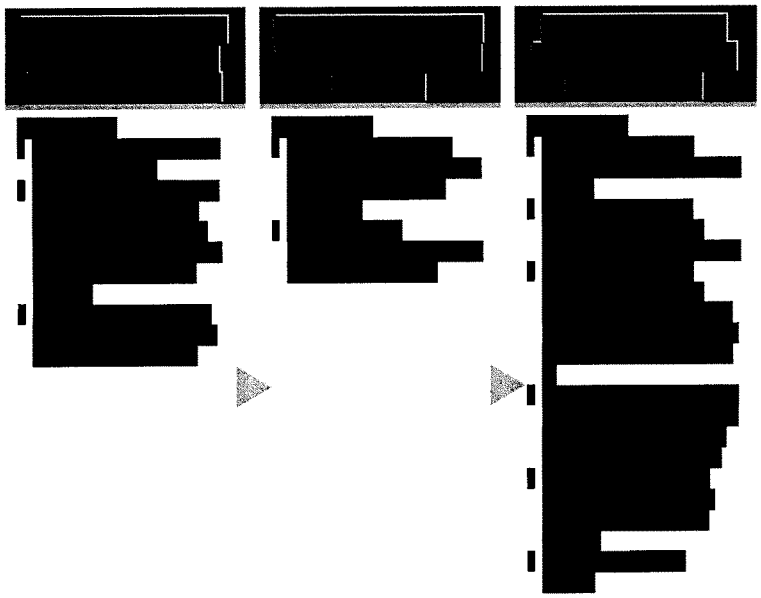
2.1.2 Overview of Steps in the Process



2.1.3 Identifying and Contacting Potential Sponsors

Table 2.1.3-A

Within 24 HOURS of identification of a sponsor

CASE MANAGER

1) Explains the requirements and procedures for safe and timely release to the sponsor:

- Explains the benefits of voluntarily attending a Legal Orientation Program for Custodians (see sub-section on LOPC) that addresses the sponsor's responsibilities following the release of the UC.

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2.2 SPONSOR ASSESSMENT CRITERIA AND HOME STUDIES

[redacted]

2.2.3 Sponsor Assessment

Sponsor Assessment Criteria Overview

➔ ORR Policy Guide, Section 2.4.1 Assessment Criteria
➔ ORR Policy Guide, Section 2.4.3 Additional Questions and Answers on This Topic

CASE MANAGER

1) Assesses the UC's strengths, needs, current functioning and any risks or special concerns.
2) Assesses the sponsor's strengths, resources, risk factors, and special concerns.
3) Weighs the risk (e.g., substance abuse) and protective/mitigating factors (e.g., strong support network).
4) Makes an assessment of the ability of the sponsor to meet the UC's individual needs.

5) Discusses the UC's needs with the potential sponsor and develops, in collaboration with the sponsor, an appropriate plan for care of the UC following release.
6) Ensures assessments are comprehensive and well-documented.

Sponsor Assessment Interview

CASE MANAGER

1) Determines if the UC and the sponsor know each other if there is no familial relationship. If they do not know each other directly, the Case Manager must consult with the Case Coordinator. The Case Coordinator must obtain approval from the FFS before the Case Manager may pursue reunification with the sponsor.
2) Searches for the sponsor's name and address in the UAC Portal to determine if there is any existing information about this sponsor or if the address provided has been used by other sponsors. Any information found must be used in the assessment process.
3) Interviews the sponsor using the *Sponsor Assessment Guide*. The Case Manager uses his/her best judgment in determining the phrasing and order of questions and asks additional questions, as needed, specific to the situation of the individual sponsor and UC.
4) Documents the assessment results in the UC case file, and notes service dates for family reunification services on the *Individual Service Plan*.
5) Documents TVPRA of 2008 sections on the *UC Assessment* and/or *UC Case Review*, as applicable.
6) Interviews the UC, UC's parent or legal guardian, and/or other family members, as applicable, to determine the commitment of the potential sponsor toward caring for the UC and to corroborate that a relationship exists between the UC and the sponsor. The Case Manager should also assess the type of relationship that exists between the UC and the sponsor, especially if a Category 3 sponsor.
7) Discusses with the sponsor his/her plan to care for the UC to ensure it adequately addresses the care, supervision, education, and resources required to meet the UC's needs.

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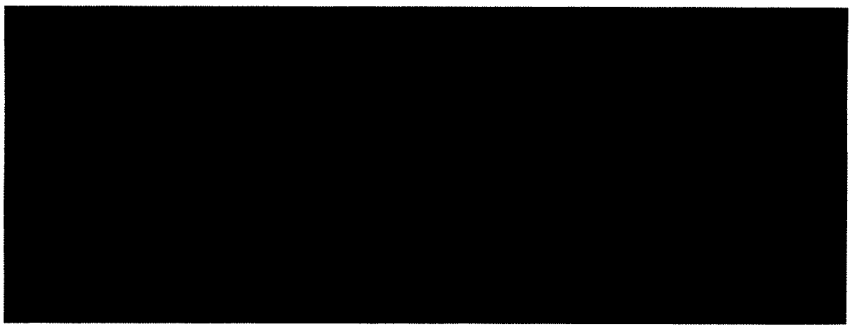

Review of Family Reunification Application and Supporting Documentation

CASE MANAGER

1) Reviews proof of sponsor identity. The sponsor must submit:
   a) At least one form of government issued photo identification (e.g., state issued driver's license or identification card, identification document issued by a governmental entity in country of origin, passport, etc.); and
   b) A copy of his/her birth certificate. Certified or original birth certificates are strongly preferred. A photocopy or facsimile copy of an original or certified copy of a birth certificate may be used.
2) Reviews proof of UC's identity. The Case Manager obtains a copy of the UC's birth certificate from the sponsor, UC's family, or consulate.

> **CONSULATE VERIFICATION OF BIRTH CERTIFICATES**
>
> The Case Manager asks the CFS, copying the FFS, to verify the UC's and/or potential sponsor's birth certificate with the Consulate under the following circumstances:
>
> - The authenticity of the birth certificate is questionable.
> - The birth certificate provided may belong to someone other than UC or sponsor for who they are presented.

3) Reviews proof of relationship between UC and potential sponsor to determine the sponsorship category.

> **PROOF OF RELATIONSHIP DOCUMENTS**
>
> 1) Parent sponsors submit copies of the UC's birth certificate and a government issued photo ID.
> 2) Qualifying step-parents submit copies of the UC's birth certificate, the parent's and

step-parent's government issued ID, marriage certificate, and court order conveying legal guardianship/custody of the UC, if applicable.

3) Legal guardian sponsors submit a copy of the court guardianship order.

4) Other related sponsors submit a trail of birth certificates, marriage certificates, and/or any other relevant documents.

5) Non-related sponsors provide an explanation of their relationship with the UC in the *Family Reunification Application*, which is confirmed by the UC's family and the UC, and the *Letter of Designation for Care of a Minor*.

If these specific documents are not available, the sponsor may submit baptismal certificates, hospital records, or any other document considered official and verifiable by a government entity, but they must be reviewed and approved as valid for relationship purposes by a FFS Supervisor.

The FFS may approve a DNA test in some instances (e.g., infants and young children, UC incapable of responding to basic questions).

6) For releases to non-parents or non-legal guardians, reviews:

a) *Letter of Designation for Care of a Minor*. The Case Manager documents all efforts made and any barriers to obtaining this letter in the *Release Request*.

b) Reviews proof of address. If proof of address cannot be obtained, the Case Manager must document this in the *Release Request* and elevate the issue to the FFS.

2.2.4 Background Checks for Potential Sponsors

Background Check Requirements Overview

→ ORR Policy Guide, Section 2.5 ORR Policies on Requesting Background Checks of Sponsors
→ ORR Policy Guide, Section 2.5.1 Criteria for Background Checks

WHEN CHECK IS REQUIRED	CATEGORY 1: Parents and legal guardians	CATEGORY 2: Other immediate adult relatives, such as brother, sister, aunt, uncle, grandparent or first cousin	CATEGORY 3: Distant relatives, unrelated adults, spouses of UC	OTHER ADULT HOUSEHOLD MEMBERS
In all cases	• Internet Criminal Public Records Check	• Internet Criminal Public Records Check • Immigration Status Check • National (FBI) Criminal History Check	• Internet Criminal Public Records Check • Immigration Status Check • National (FBI) Criminal History Check • Child Abuse and Neglect (CA/N) Check	
Where there is a documented risk to the safety of the unaccompanied child, the child is especially vulnerable, and/or the case is being referred for a mandatory home study)	• Immigration Status Check • National (FBI) Criminal History Check • Child Abuse and Neglect (CA/N) Check	• Child Abuse and Neglect (CA/N) Check		• Immigration Status Check • National (FBI) Criminal History Check
In any case where a special concern is identified	• Child Abuse and Neglect (CA/N) Check	• Child Abuse and Neglect (CA/N) Check		• Internet Criminal Public Records Check • Child Abuse and Neglect (CA/N) Check
On a case-by-case basis when there is an unresolved criminal arrest or issue that is still in process	• State Criminal History Repository Check and/or Local Police Check	• State Criminal History Repository Check and/or Local Police Check	• State Criminal History Repository Check and/or Local Police Check	• State Criminal History Repository Check and/or Local Police Check

In lieu of fingerprint background check results in the case of unidentifiable fingerprints or in extenuating circumstances	• FBI Interstate Identification Index (FBI III) Name/Descriptor Check	• FBI Interstate Identification Index (FBI III) Name/Descriptor Check	• FBI Interstate Identification Index (FBI III) Name/Descriptor Check	• FBI Interstate Identification Index (FBI III) Name/Descriptor Check

Table 2.2.4-A

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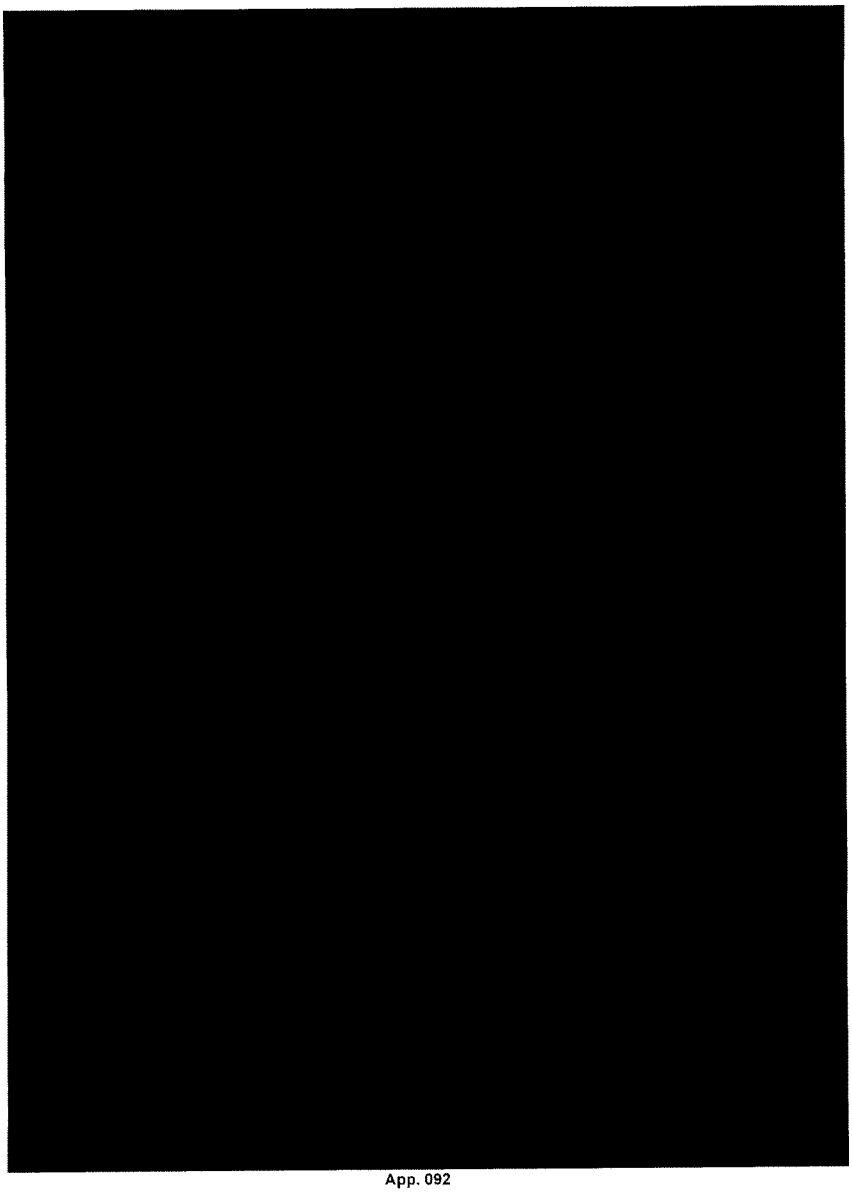

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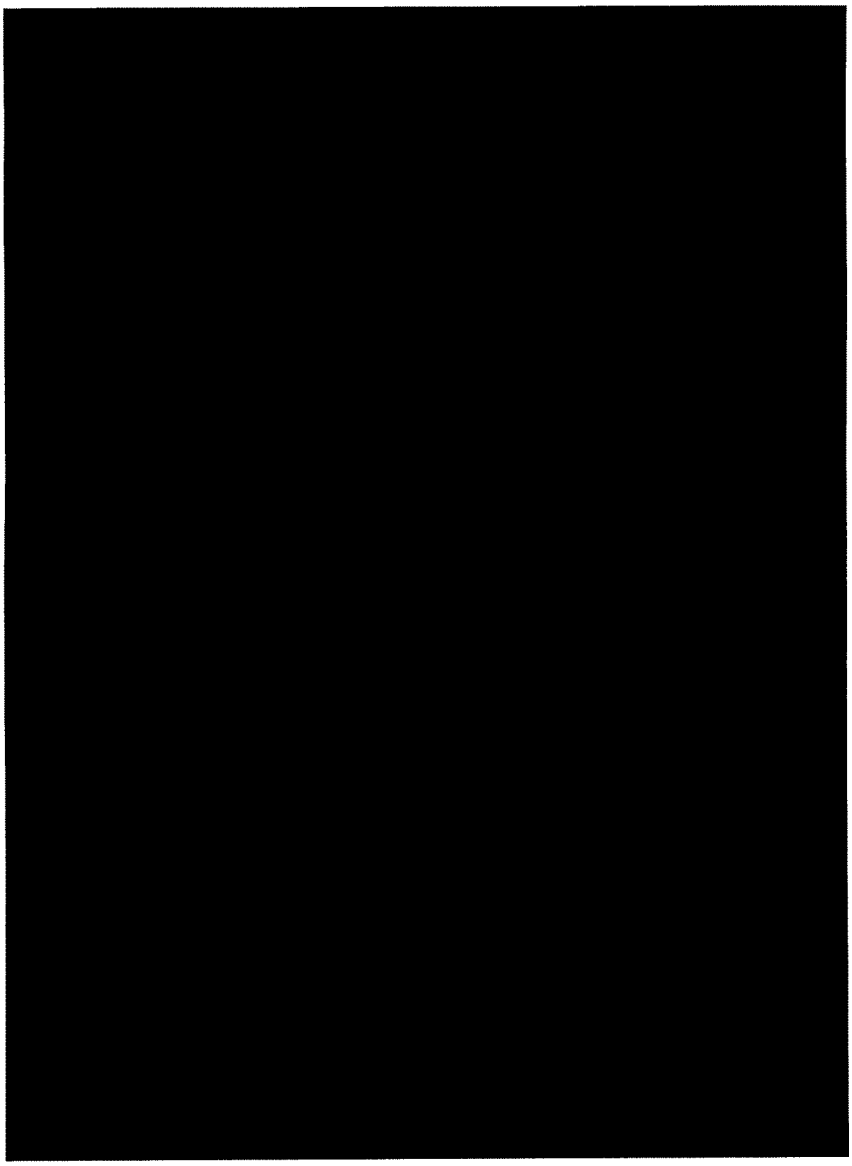

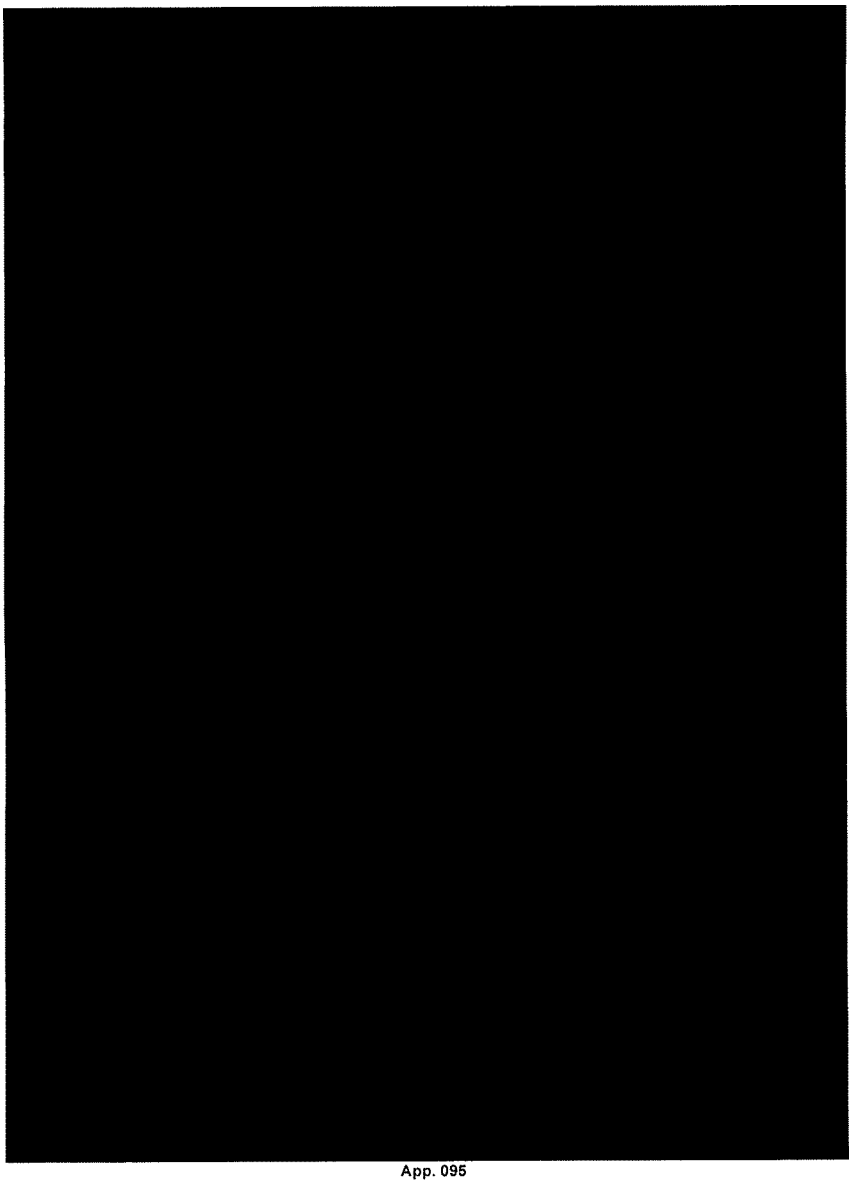

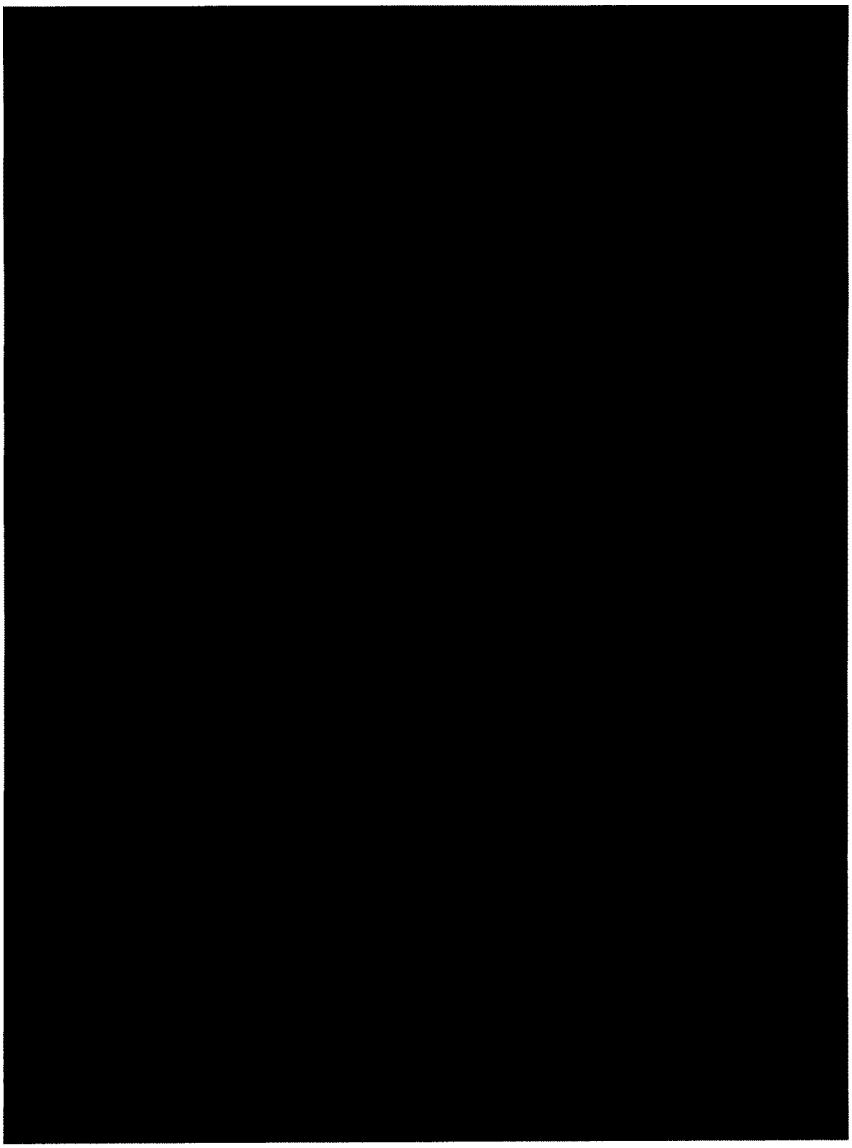

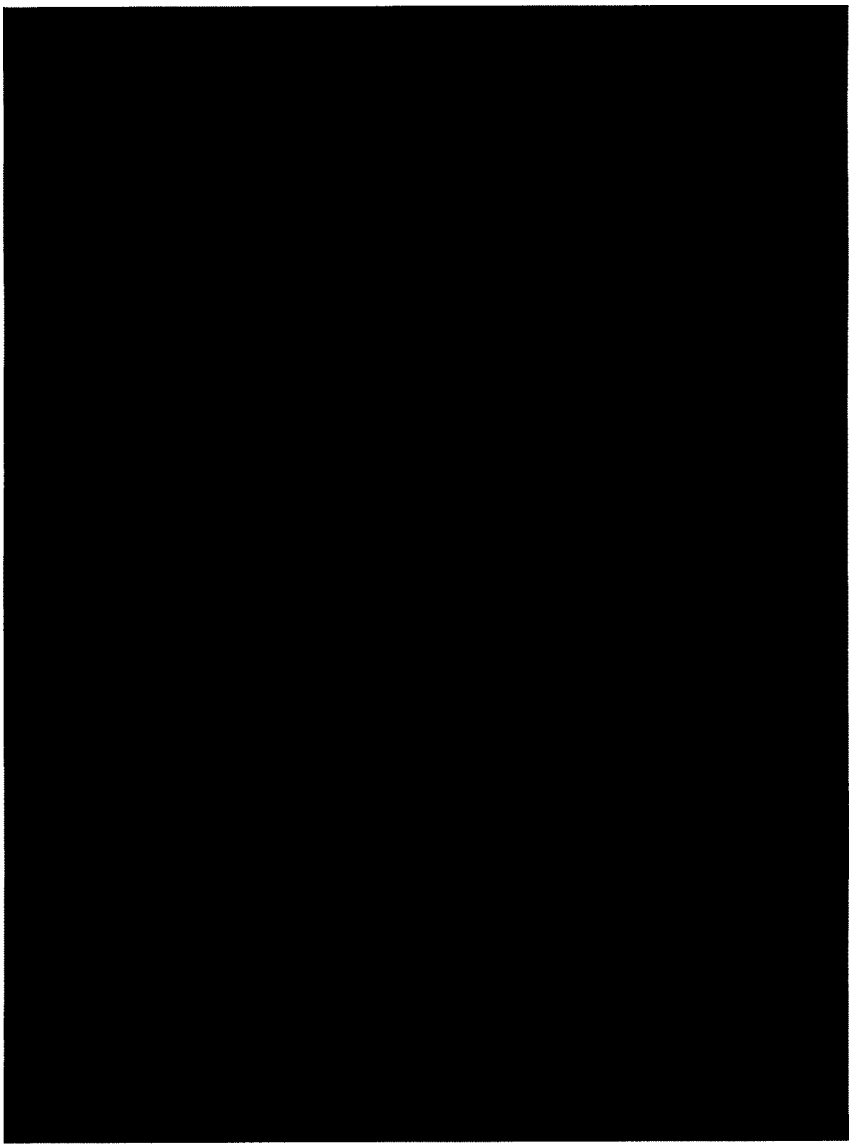

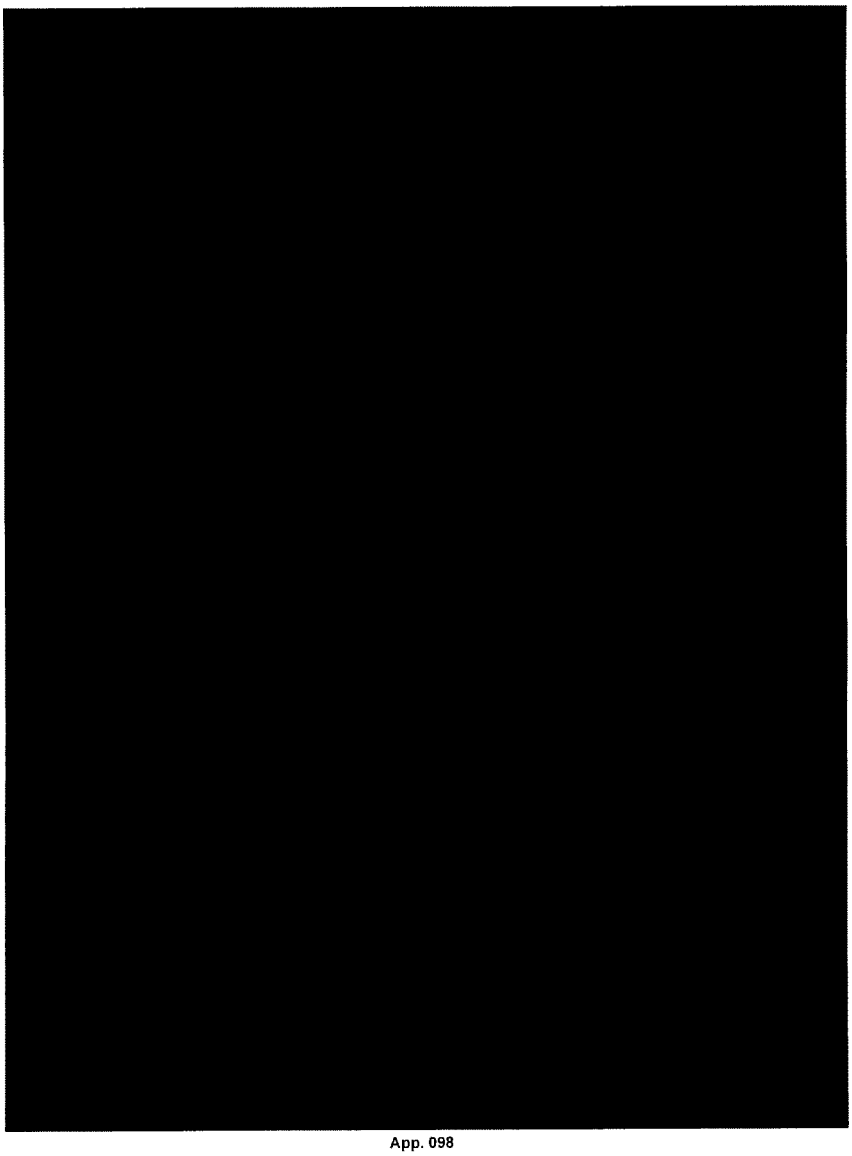

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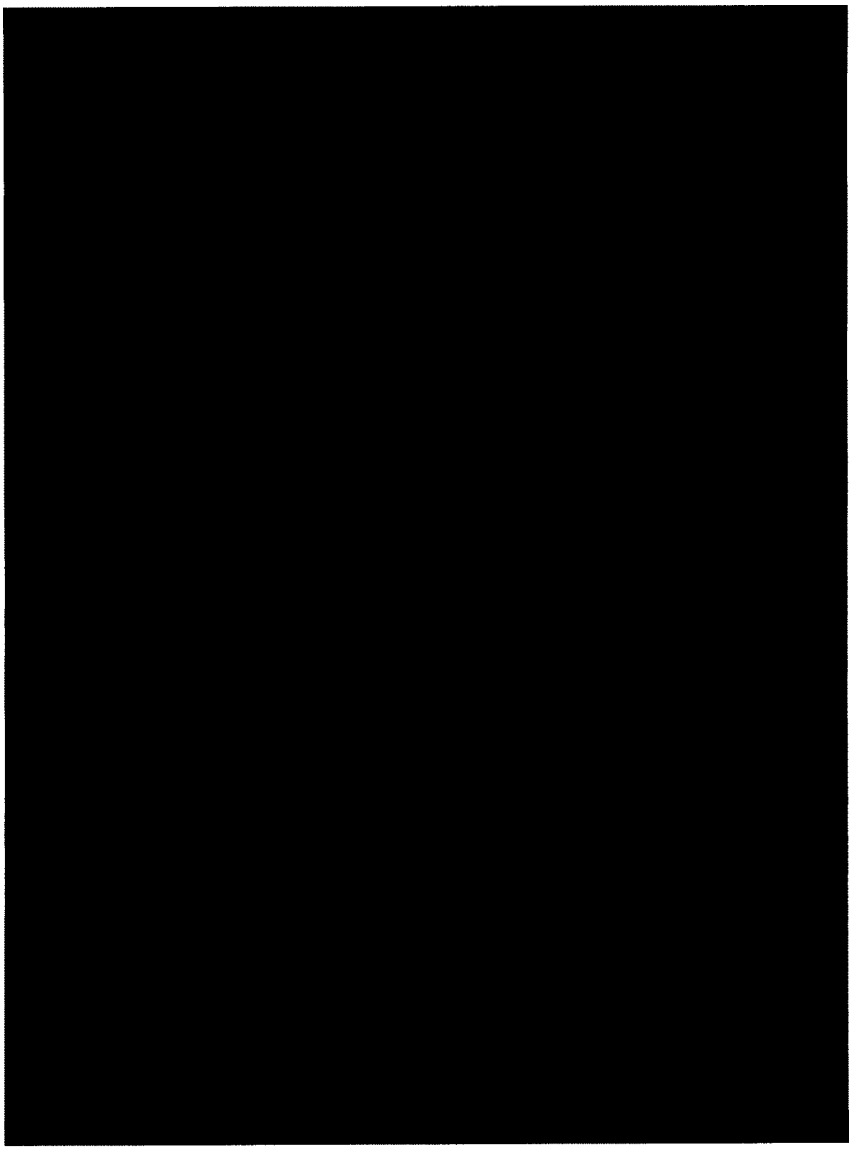

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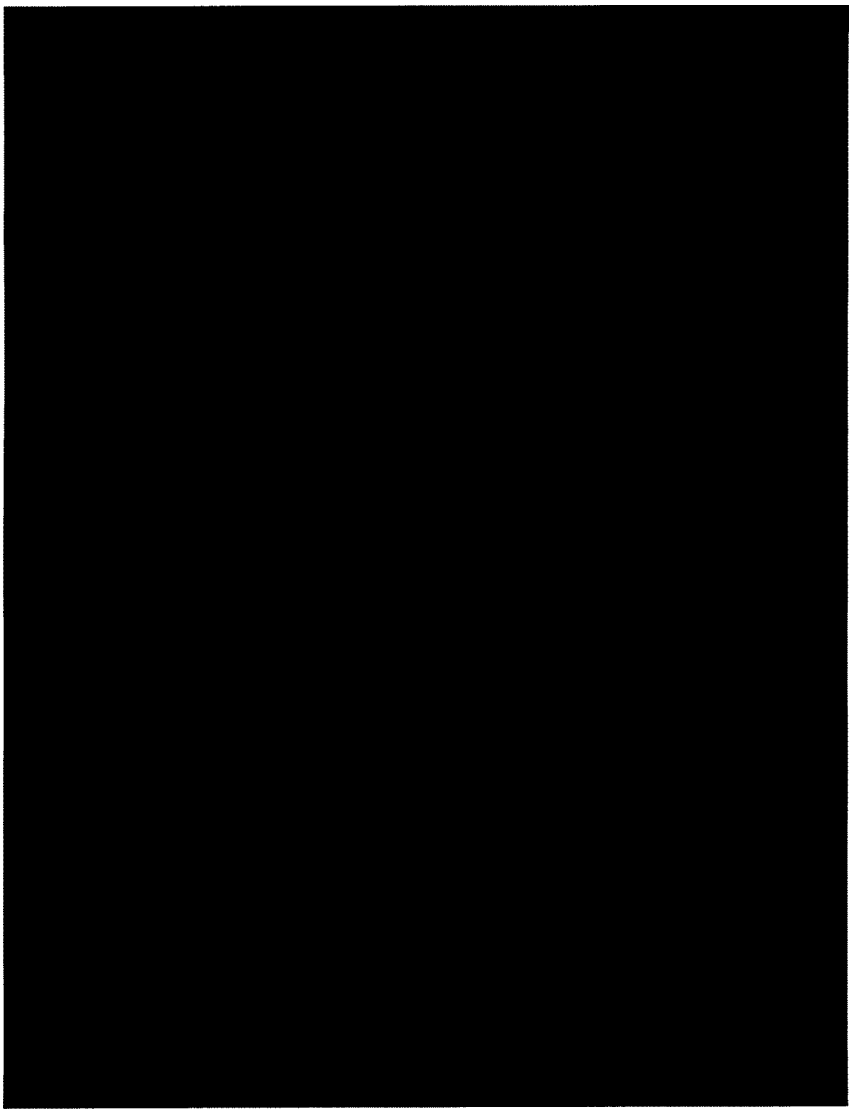
2.3 RECOMMENDATIONS AND DECISIONS ON RELEASE

[redacted]

[redacted]



[redacted]

Within 1 BUSINESS DAY of receipt of the Case Manager's release recommendation (2 BUSINESS DAYS for home study cases)

CASE COORDINATOR

1) Reviews (NOTE: If red flags in the case, then a review of additional case information to make an informed release recommendation):
    a. *UC Case Review*
    b. *ISP (if applicable)*
    c. *Sponsor Assessment*
    d. Case Manager Recommendation section of the *Release Request*
    e. *Home Study* (if applicable)
2) Updates the Case Coordinator Recommendation section of the *UC Release Request* with the third-party recommendation that includes the following information:
    a. If the Case Coordinator concurs with the Case Manager's release request recommendation, then the *Release Request* comment should state the support without re-summarizing information that is already available in the UAC Portal and UC case file.
    b. If the Case Coordinator does not concur with the Case Manager's release request recommendation, then the *Release Request* comment should note the discrepant information identified and provide brief justification supporting a deferring recommendation without re-summarizing information that is already available in the UAC Portal and UC case file.

[redacted]

[redacted]

[redacted]

3.2 CARE PROVIDER REQUIRED SERVICES

[redacted]

[redacted]

[redacted]	[redacted]
[redacted]	[redacted]

[redacted]	[redacted]
[redacted]	[redacted]

3.2.2 UC Assessment

→ ORR Policy Guide, Section 3.3.1

QUALIFIED CASE MANAGER OR CLINICIAN

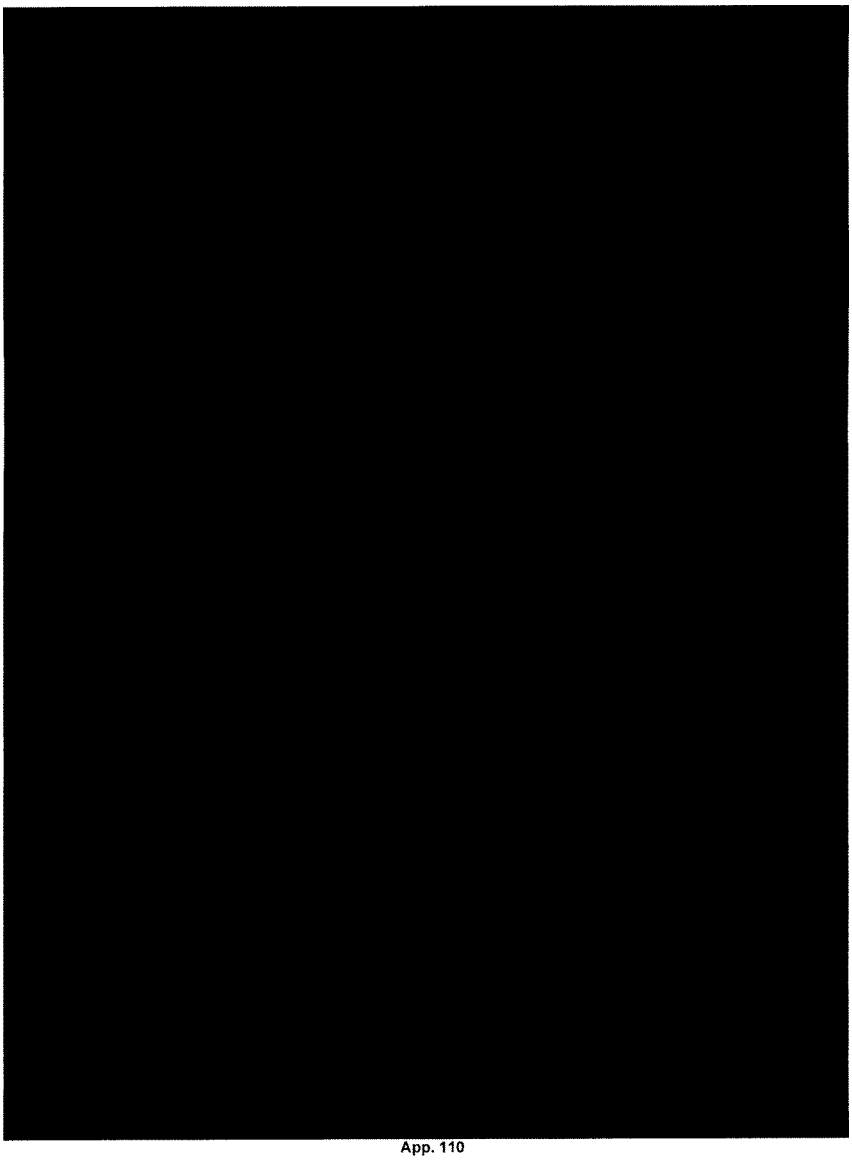
1) **WITHIN FIVE (5) CALENDAR DAYS OF ADMISSION**, interviews the UC in a private setting (reference *Interviewing Guidonce for Clinicians and Caseworkers*) and completes all sections of the *UC Assessment* in the UAC Portal:

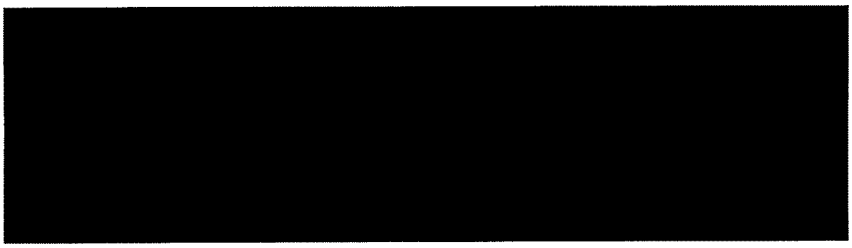
    - UC Basic Information (auto-populates in the UAC Portal)
    - Additional Basic UC Information
    - Journey and Apprehension
    - Family/Significant Relationships
    - Medical
    - Legal
    - Criminal History
    - Mental Health/Behavior
    - Trafficking
    - Sponsor Information (List by Priority)
    - Mandatory TVPRA 2008
    - Additional Information
    - Certification

[redacted]

[redacted]

[redacted]





OFFICE OF REFUGEE RESETTLEMENT
Division of Children's Services
FAMILY REUNIFICATION APPLICATION

1. Name of the minor:	**2. Your relationship to the minor:**
3. Your name:	**4. Any other names you have used:**
5. Your country of origin:	**6. Your date of birth:**
7. Phone number(s) we may reach you at: ( ) -	**8. Your email address (if you have one) or fax number:**
9. The address where you and the minor will reside:	**10. Languages you speak:**

11. Household occupant information. (If you need more room please attach a list of household occupants to this form)

Name	Date of Birth	Relationship to the minor (e.g. mother, father)	Relation to you (the sponsor)

12. Financial information: Please explain how you plan to financially support the minor:

13. Does any person in your household have a serious contagious diseases (e.g. TB, AIDS, hepatitis)? If so please explain:

14(a). Have you or any person in your household ever been charged with or convicted of a crime (other than a minor traffic violation; e.g. speeding, parking ticket)?
☐ NO ☐ YES

14(b). Have you or any person in your household ever been investigated for the physical abuse, sexual abuse, neglect, or abandonment of a minor?
☐ NO ☐ YES

If you answered "YES" to either question 14(a) or 14(b) please attach a list to this form with the following information for each charge/conviction:
(1) Name of person involved; (2) Place and date of the incident; (3) Explanation of the incident;
(4) Disposition of the incident (e.g., charges dropped, fined, imprisoned, probation); (5) Copy of court record(s), police record(s), and/or governmental social service agency record(s) related to the incident(s)

15. If there is a possibility that you might need to leave the United States, or become unable to care for the minor, who will supervise the minor in your absence?:
Name of potential adult care giver:
Date of birth of potential adult care giver:
Contact information (address and phone number) of potential adult eare giver:
Relationship to the child, if any:
Summarize your care plan in the event you leave the United States or become unable to care for the minor:

I declare and affirm under penalty of perjury that the information contained in this application is true and accurate to the best of my knowledge. I attest that all documents I am submitting or copies of those documents are free of error and fraud.

I further attest that I will abide by the care instructions contained in the *Sponsor Care Agreement.* I will provide for the physical and mental well-being of the minor. I will also comply with my state's laws regarding the care of this minor including: enrolling the minor in school; providing medical care when needed; protecting the minor from abuse, neglect, and abandonment, and any other requirement not herein contained.

YOUR SIGNATURE:_____ **DATE:**

From: Biswas, Toby R M (ACF)
To: UCPolicy (ACF)
Subject: FAQ Friday- REVISED- Recent Changes to Home Study and Post Release Services Policy
Date: Friday, September 25, 2015 11:32:57 AM

Dear Care Providers

After careful consideration we have modified the responses to questions #4, #5 and #6 in the August 14th, FAQ Friday on the recent changes to Home Studies and Post Release Services. Please find those revised responses highlighted below. As always please contact the UCPolicy@acf.hhs.gov resource box for any policy related questions.

Q #1: Under the pilot program announced on July 1, are home studies required for children under 12 who are going to either an unrelated sponsor or a distant relative (i.e., Category 3 sponsors)?

A: Yes, home studies are required for children under 12 going to EITHER an unrelated sponsor or a distant relative.

Q #2: Are post-release services required for all children being released to Category 3 sponsors?

A: Yes, children being released to verifiable distant relatives or unrelated sponsors will automatically receive post release services.

Q #3: The waitlist for home studies is currently very long. Should programs still refer cases for a home study?

A: If a child or sponsor meets the categories for a home study in 2.4.2 Mandatory Home Study Requirement, then programs must refer the case for a home study. ORR is reviewing cases on a daily basis to ensure the wait list is cleared as quickly as possible, while continuing to ensure safe releases.

Q #4: If a sponsor has sponsored his/her own child, and a few weeks later wishes to sponsor an unrelated child, must the sponsor undergo a home study?

A: No, if there are no safety concerns and the children do not meet the mandatory TVPRA categories in 2.4.2 Mandatory Home Study Requirement, then the sponsor is not required to undergo a home study.

Q #5: If a sponsor has sponsored an unrelated child, and a few weeks later wishes to sponsor his/her own child, must the sponsor undergo a home study?

A: No, if there are no safety concerns and the children do not meet the mandatory TVPRA categories in 2.4.2 Mandatory Home Study Requirement, then the sponsor is not required to undergo a home study.

Q #6: If a sponsor wishes to sponsor their own child and 2 unrelated children, must all 3 children undergo a home study?

A: No, the sponsor must only undergo a home study for the unrelated children. In the event that a sponsor has undergone a home study for an unrelated child, and within 6 months of the completed home study wishes to sponsor another unrelated child, a new home study is not required as long as the circumstances of the sponsor's home remain unchanged.

Thanks.

Toby Biswas

Toby R. M. Biswas, ESQ.
Unaccompanied Children's Policy Supervisor

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Refugee Resettlement
Office of the Director – Division of Policy

From: Brandon, Cate (HHS/ASL) [redacted]
Sent: Friday, October 09, 2015 3:57 PM
To: Beras, Mel (HSGAC); Tucker, Rachael (HSGAC); Callanan, Brian (HSGAC); Owen, Matt (HSGAC); Daum, Margaret (HSGAC)
Cc: Barstow, Kevin (HHS/ASL)
Subject: FW: Request for October 1 PSI Briefing on ORR

Hi Mel,

Here is the information that you requested regarding releases to sponsors by category. This should close out the information you requested in the email below. Please give me a call if you have any questions.

I hope you all enjoy your long weekend.

Thanks,
Cate

	Releases to Sponsor By Category FY 2015 YTD (8/31/15)		
Sponsor Category	**United States**	**Missouri**	**Ohio**
1	12,807	82	179
2	8,560	49	191
3	2,303	13	61
Total	23,670	144	431

	Releases to Sponsor By Category FY 2014		
Sponsor Category	**United States**	**Missouri**	**Ohio**
1	32,199	129	277
2	15,634	72	239
3	5,575	22	117
Sponsor Relationship Not Recorded in Portal Data Field	142	1	1
Total	53,550	224	634

Cate Brandon, J.D.
Senior Counsel
Oversight & Investigations
Office of the Assistant Secretary for Legislation
U.S. Department of Health and Human Services
[redacted]

From: Brandon, Cate (HHS/ASL)
To: Tucker, Rachael (HSGAC); Owen, Matt (HSGAC); Beras, Mel (HSGAC); Daum, Margaret (HSGAC)
Cc: Barstow, Kevin (HHS/ASL)
Subject: RE: Response to Dec. 8 letter and documents
Date: Wednesday, January 06, 2016 1:05:02 PM

Quick follow up on the ORR cases regarding how they were identified by ORR. ORR inquired with ORR/FFSs and OTIP staff about whether they were aware of such cases, and also reviewed the case files of UCs re-referred back to ORR's care to determine if there were any trafficking concerns identified after the initial release. Some cases initially identified were OTIP referrals from the hotline or kids from the Ohio case [redacted]

Also, regarding Marie Cancian, she served as Senior Advisor to the Secretary from January to March 2015 and then Deputy Assistant Secretary for Policy from April to the present. She was nominated to the Assistant Secretary in February 2014. She had a hearing and was voted out of committee but never had a floor vote. She was renominated again last year but no action has been taken since then.

From: Tucker, Rachael (HSGAC) [redacted]
Sent: Tuesday, January 05, 2016 7:14 PM
To: Brandon, Cate (HHS/ASL); Owen, Matt (HSGAC); Beras, Mel (HSGAC); Daum, Margaret (HSGAC)
Cc: Barstow, Kevin (HHS/ASL)
Subject: RE: Response to Dec. 8 letter and documents

Thank you for tonight's production. Can we try for the noon hour tomorrow?

From: Brandon, Cate (HHS/ASL) [redacted]
Sent: Tuesday, January 05, 2016 6:34 PM
To: Owen, Matt (HSGAC); Tucker, Rachael (HSGAC); Beras, Mel (HSGAC); Daum, Margaret (HSGAC)
Cc: Barstow, Kevin (HHS/ASL)
Subject: Response to Dec. 8 letter and documents

Hi All,

Attached is our response to the Subcommittee's December 8 letter. In addition to this substantive response, Kevin and I will be delivering documents to you shortly that are responsive to your October 2 letter. Those documents include:

(1) [redacted] children identified by ORR. [redacted] all 7 cases identified by ORR received an eligibility letter from OTIP. [redacted] I know you have requested an explanation of how these cases were identified. I am working to confirm my understanding with ORR and should have an answer for you tomorrow.

(2) [redacted] children identified by LIRS. [redacted] It is my understanding that LIRS told ORR that this list includes kids who had trafficking indicators and/or CPS involvement. Trafficking indictors does not necessarily mean that a

trafficking incident occurred – it could mean only that risks for trafficking were identified. As you will see, one of these children received an eligibility letter while in ORR's custody based on events in his home country. None of the other children identified by LIRS received an eligibility letter from OTIP, and we understand from OTIP that no referrals/requests were made to OTIP for any of these children post-release.

(3) [redacted]

Regarding a call tomorrow, we are available between 10-11 and 12-1. Let us know if either of those windows work for you.

Thanks!

Cate

Cate Brandon, J.D.
Senior Counsel
Oversight & Investigations
Office of the Assistant Secretary for Legislation
U.S. Department of Health and Human Services
[redacted]

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of Ohio

United States of America v. BARTOLO DOMINGUEZ *Defendant(s)*	)))))))	Case No. 3:14 MJ 5102

FILED
DEC 19 2014
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TOLEDO

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 18, 2014 in the county of Marion in the Northern District of Ohio, the defendant(s) violated:

Code Section	*Offense Description*
Title 18, U.S.C., Section 1324(a)	Concealing, Harboring, & Shielding Aliens from Detection for Financial Gain

This criminal complaint is based on these facts:

See attached affidavit.

☑ Continued on the attached sheet.

s/ Derek Kleinmann
Complainant's signature

Derek Kleinmann, Special Agent FBI
Printed name and title

Sworn to before me and signed ~~in my presence.~~ by telephone

Date: 12/19/2014

City and state: Toledo, Ohio

James R. Knepp
Judge's signature

James R. Knepp, II, U.S. Magistrate Judge
Printed name and title

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AFFIDAVIT

I, Derek Kleinmann, Special Agent of the Federal Bureau of Investigation (FBI), hereinafter referred to as your Affiant, being duly sworn, states that:

1. Your Affiant has been employed by the FBI since September 13, 2010. Affiant has spent the last four years assigned to the FBI's Cleveland Division, White Collar Crime squad. In addition, your Affiant is currently detailed as a Special Assistant United States Attorney for the Northern District Ohio. Prior to obtaining employment with the FBI, your Affiant obtained a Bachelor of Science Degree in Business Administration, a Master's of Business Administration and a Juris Doctorate. Your Affiant was employed as an Associate Managing Director for a publicly traded commercial bank for approximately three year prior to joining the FBI.

2. As a Special Agent of the FBI, your Affiant received basic investigative training at the FBI Academy in Quantico, Virginia. Affiant has participated in the planning and execution of numerous search warrants, arrest warrants and seizure warrants, and has been responsible for the processing of seized evidence. Your Affiant has supervised the activities of Confidential Human Sources (hereinafter "CHS") that have provided information and/or evidence concerning a wide array of criminal investigations. For the majority of his employment with

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the FBI, your Affiant has been assigned responsibilities to investigate white collar crime, organized crime, money laundering, bribery, and other general criminal matters. At all times during the investigation described in this Affidavit, your Affiant has been acting in an official capacity as a Special Agent of the FBI.

3. This Affidavit is made in support of an arrest warrant and criminal complaint for (1) BARTOLO DOMINGUEZ, DOB: 8/24/1960, Alien Number: A201102126, FBI Number: 634540CH6, Height: 5'2", Weight: 160 pounds, Last Known Address: Rowan, Iowa; and, (2) CONRADO ULISES SALGADO-BORBAN, DOB: 10/28/1984, Alien Number: A201102125, FBI Number: 634705CH8, Height: 5'9", Weight: 210 pounds, Last Known Address: Kenton, Ohio; both of whom are illegally present in the United States; regarding violations of Title 8, United States Code, Section 1324(a) (Concealing, Harboring, and Shielding Aliens from Detection for Financial Gain).

BASIS OF INFORMATION

4. Since the FBI opened its investigation into this matter, FBI agents have reviewed witness statements, and information from Special Agents of the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Border Patrol, and local law enforcement officers indicating that the Subjects of this investigation are engaged in

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substantial Concealing, Harboring, and Shielding aliens from detection for financial gain.

5. Your Affiant is familiar with the facts and circumstances of the offenses described in this Affidavit based upon your Affiant's personal participation in the investigation, as well as through information obtained from other FBI agents, law enforcement agencies, witnesses, and reliable CHSs.

6. Except as otherwise noted, the information set forth in this Affidavit has been provided to your Affiant by FBI, DHS, ICE, and Border Patrol Agents, or other law enforcement officers. Unless otherwise noted, whenever in this Affidavit your Affiant asserts that a statement was made, the information was provided by another law enforcement officer (who may have had either direct or hearsay knowledge of the statement) to whom your Affiant has spoken or whose report your Affiant has read and reviewed.

7. Since the Affidavit is being submitted for the limited purpose of securing an arrest warrant, your Affiant has not included each and every fact known concerning this investigation. Your Affiant has set forth only the facts that are believed to be necessary to establish the foundation for a warrant authorizing the arrest of the persons identified in this Affidavit.

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PROBABLE CAUSE

8. On or about October 20, 2011, Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) received information that persons were being smuggled into the United States and placed into jobs at an egg farm in Mount Victory, Ohio.

9. On January 28, 2013, ICE Agents interviewed two witnesses, (hereinafter "W3" and "W4"). W3 and W4 told ICE Agents that they were smuggled to the U.S. from Guatemala by A.C. approximately two years prior. W3 and W4 told investigators that they are citizens of Guatemala and are present in the U.S. without authorization. W3 and W4 were interviewed by ICE Agents separately. W3 stated that A.C. helped bring W3 to the U.S. and that once in the U.S., W3 was told by A.C. that he had to pay back a $15,000 debt for the trip to the U.S. W3 met A.C. in Guatemala and that was when arrangements were made for W3 to be brought to the United States. According to W3, A.C.'s brother-in-law in Guatemala arranges contracts with people wishing to go to the U.S. The brother-in-law has the alien sign a contract that says that if the alien doesn't pay off their debt, their family's land in Guatemala will be turned over to the brother-in-law. Upon arrival in the U.S., a driver took W3 to Ohio from the border and dropped him off in the trailer park where A.C. lived. W3 observed A.C. pay the

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driver for the trip. A.C. arranged for W3 to work at an egg farm in Marseilles, Ohio. In order to pay off the debt, W3 was required to provide W3's paycheck to A.C. every weekend. W3 told investigators that A.C. forced everyone to live in the trailers that A.C. controlled, so that they would be forced to pay him (A.C.) and not be allowed to leave. W3 advised that several people live in each trailer and that each person pays the $230.00 for rent.

10. Information provided to ICE Agents by W4 was identical to the information provided by W3 in regards to being smuggled into the U.S. from Guatemala and subsequently brought to Ohio. W4 was also forced to provide W4's paycheck to A.C. with a $20 spending allowance each week. W4 indicated that A.C. took $170 for rent and approximately $200 for utilities and food each week. W4's weekly $500 paycheck was provided to A.C. at his trailer. W4 told investigators that A.C. kept a ledger of payments. W4 described the book as having a black cover and that it has a picture of A.C. on the front cover. W4 recalled that inside the book it has rule lined paper with names, dates, and numbers. When asked by investigators what happens if W4 refused to pay, W4 stated that W4's farm/property would be taken by A.C. in Guatemala. W4 indicated that A.C. instructs aliens to keep quiet about what goes on.

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11. On October 6, 2014, a sixth witness (hereinafter "W6") reported to a Detective with the Collier County, Florida Sheriff's Office that he received a call from his nephew, a seventh witness (hereinafter "W7"). W6 was concerned for W7's safety because W7 told W6 that he was being forced to work against his will in Marion, Ohio. During the call, W7 stated that he had been detained for illegally crossing the U.S. border. After his release from Immigration, W7 was transported by "Coyotes" (meaning human smugglers) to Marion, Ohio. Upon arrival, W7 was informed by A.C.'s associates that he would have to pay off a debt of $15,000 for his trip across the border. W7 told W6 that he is currently being forced to live in a trailer home located at Oakridge Estates, 6605 Marion-Agosta Road, Lot #229, in Marion, Ohio. W7 advised he is forced to work six days a week at an egg farm. W7 advised that he and approximately 20 other Guatemalan juveniles are being forced to work the egg farms in order to pay off the aforementioned smuggling fee. Furthermore, W7 indicated that the he and the other Guatemalan juveniles are forced to live at the trailer park with very little food. W7 indicated that he and the other juveniles are transported by van to the egg farm in the early morning and dropped off at the trailer park late in the evening. W7 told W6 that he is supposed to receive a paycheck on Fridays, but A.C.'s teenage son keeps his paycheck. W7 indicated that in the four

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months since his arrival at the trailer park, he has been provided with only $100 to live off of. W7 also told W6 that the individuals in charge threatened that if W7 were to leave the trailer park or refuse to work, they would retaliate by shooting W7's father in the head.

12. On November 19, 2014, ICE SA Robert France conducted ICE/HIS and United States Citizenship and Immigration Services (USCIS) database record check for W7 which revealed that W7 had a listed address of 6605 Marion-Agosta Road, Lot #7, Marion, Ohio 43302.

13. FBI SA Fisher and TFO Troutman met with the aforementioned ICE SOI (hereinafter Source #1 will be referred to as "S1") and an individual who lives with S1 (hereinafter Source #2 will be referred to as "S2"). S1 and S2 stated that over the past two years, A.C. has been operating a Human Smuggling Organization that is based out of Guatemala, Huehuetenango, La Villa de Barillas, Aldea Yulconop.

14. S1 advised A.C.'s associate, BARTOLO DOMINGUEZ, owns six vans which are used to transport Guatemalan adults and juveniles to and from the egg farms. S1 described DOMINGUEZ as a very large man who claims to be of Mexican descent. S1 added that DOMINGUEZ lives at Eagle Point Apartments located at 815 Morningside Drive, Apartment 7-D, in Kenton, Ohio.

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15. S2 told law enforcement that S2 was arrested by Border Patrol in the Rio Grande Valley, Texas sector on July 2, 2013. Border Patrol determined that S2 had unlawfully entered the U.S. from Mexico. S2 was transported to the McAllen Border Patrol Station for processing. S2 told the Border Patrol Agents that S2 departed by bus from S2's home in Yulconop, Guatemala on April 11, 2013 and arrived in Mexico on the evening of April 14, 2013. S2 arrived in Reynosa, Tamaulipas, Mexico on April 18, 2013. S2 attempted to make entry to the U.S. on July 2, 2013, the date of S2's arrest. S2 was 17 years old at the time of S2's arrest.

16. On December 4, 2014, FBI SA Fisher conducted physical surveillance at Oakridge Estates, 6605 Marion-Agosta Road, in Marion, Ohio. The surveillance was initiated at approximately 4:00 P.M. At approximately 4:17 P.M., a silver 1997 Ford E350 van bearing Ohio License Tag FUP8331 was observed entering the Oakridge Estates property from Marion-Agosta Road. The van stopped in front of Lot #7 and two unknown Hispanic Males (H/M) exited the van. One H/M appeared to be a juvenile. Both H/M's entered the trailer at Lot #7 as the van drove away. At approximately 4:19 P.M., the van stopped in front of Lot #232 and two H/M's exited the van. One H/M appeared to be an adult and the other H/M appeared to be a juvenile. Both H/M's entered the trailer at Lot #232. At approximately 4:20 P.M., the van

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stopped in front of Lot #226 and two H/M's exited the van. Both H/M's appeared to be adults. Both H/M's entered the trailer at Lot #226. A Juvenile Hispanic Female was observed standing at a window near the end of the trailer. At approximately 4:22 P.M., the van stopped in front of Lot #200 and two H/M's exited the van. Both H/M's appeared to be adults. Both H/M's entered the trailer at Lot #200. At approximately 4:24 P.M., the van stopped in front of Lot #213 and two H/M's exited the van. Both H/M's appeared to be adults. Both H/M's entered the trailer at Lot #213. At approximately 4:26 P.M, the van stopped in the driveway of Lot #36. Your Affiant was unable to see if anyone exited the van. The van then left the Oakidge Estates property traveling westbound on Marion-Agosta Road. At approximately 4:56 P.M., the van turned southbound onto Henry Street, in Kenton, Ohio and surveillance was terminated as it appeared the driver was conducting counter-surveillance by making abrupt turns without signaling and changing speeds for apparent reason.

17. On December 4, 2014, FBI SA Fisher conducted physical surveillance at Eagle Point Apartments located at 815 Morningside Drive, in Kenton, Ohio. The surveillance was initiated at 7:20 P.M. At approximately 7:21 P.M., FBI SA Fisher observed a white 2010 Ford E350 van bearing Ohio License Tag PHW2661 backed into a parking space in the vicinity of Apartment 7-D. According to the Ohio Law Enforcement Gateway (OHLEG)

database, PHW2661 is registered to which is registered to HABA Corporate Services, 2100 Hardin-Marion Road, Larue, Ohio 43332.

18. On December 5, 2014, FBI SA Fisher conducted physical surveillance at Oakridge Estates located at 6605 Marion-Agosta Road, in Marion, Ohio. The surveillance was initiated at approximately 3:45 A.M. At approximately 5:14 A.M., a silver 1997 Ford E350 van was observed entering the Oakridge Estates property. The van drove to Lot #36 and parked in the driveway. The headlights of van were left on. FBI SA Fisher drove by and noticed that the van was unoccupied. During the drive by, FBI SA Fisher confirmed that the Ford E350 van displayed the same Ohio License Tag FUP8331 as the van observed during surveillance on December 4, 2014. At approximately 5:28 A.M., an unknown Subject was observed walking out of Lot #36 and entering the driver's seat of the van. At approximately 5:29 A.M., two unknown Subject walked out of Lot #36 toward the van. Both unknown Subjects were carrying what appeared to be one grocery sack each. The last unknown Subject out of Lot #36 stopped and turned the lights off inside the trailer at Lot #36 prior to shutting the door. The van then backed out and traveled toward Lot #200. At approximately 5:30 A.M., the van stopped in front of Lot #200 and two unknown Subjects entered the van and the van traveled toward Lot #213. At approximately 5:32 A.M., the van stopped in front of Lot #213. The van then traveled towards Lot #45. At

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approximately 5:33 A.M., the van stopped in front of Lot #44, Lot #45, and Lot #47. FBI SA Fisher was unable to observe if anyone entered the van. At approximately 5:35 A.M., the van traveled toward Lot #226. At approximately 5:36 A.M., the van stopped in front of Lot #226 and honked the horn. FBI SA Fisher was unable to see if anyone entered the van. The van then traveled toward Lot #232. At approximately 5:37 A.M., the van stopped in front of Lot#232. Two unknown Subjects entered the van and then the van traveled out of your FBI SA Fisher's view. At approximately 5:42 A.M., the van stopped in front of Lot #7 and honked the horn. Two unknown Subjects entered the van. At approximately 5:43 A.M., the van departed the Oakridge Estates property westbound on Marion-Agosta Road. At approximately 5:59 A.M., the van pulled into the front entrance of the egg farm in Marseilles, Ohio. The van stopped behind a tractor trailer near the entrance. At approximately 6:03 A.M., the van was observed driving around the backside (southeast corner) of the egg farm and then out of FBI S.A. Fisher's view.

19. FBI SA Fisher ran a query of the Ohio Law Enforcement Gateway (OHLEG) for Ohio License Tag FUP8331, which is registered to HABA Corporate Services, 2100 Hardin-Marion Road, Larue, Ohio 43332.

20. At approximately 8:39 P.M., FBI SA Fisher conducted a telephonic interview of S2's mother. Chris Dimmick, Master

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Level Court Certified Spanish Interpreter and Contract Linguist also participated in the telephonic interview which was conducted in a teleconference format. S2's mother indicated that she last spoke to S2 on December 10, 2014. S2's mother advised that A.C. is a very rich and powerful man in Guatemala. S'2 mother stated that A.C. has become rich by smuggling Guatemalans into the U.S. S2's mother indicated that A.C. has been operating his smuggling ring for over two years. When asked how many Guatemalan's A.C. has smuggled into the U.S., S2's mother estimated that A.C. has smuggled 40 Guatemalan adults and 10 Guatemalan juveniles. S2's mother opined that only 6 or 7 Guatemalan juveniles remain in the U.S. When asked how she determined the number of juveniles, S2's mother stated that she made contact with other parents in her village that also have children who have been smuggled into the U.S. by A.C. S2's mother stated that the Guatemalan juveniles work long hours Monday through Saturday. S2's mother advised that she learned from the other parents that J.C. and G.C. (juveniles) were washing hogs at a hog farm in Ohio. S2's mother was unaware of where the other Guatemalan juveniles are employed, however S2's mother stated that A.C. requires each of the juveniles to work so they can pay off their debts. S2's mother indicated that she is unaware of the living conditions of the aforementioned 6 Guatemalan juveniles, but learned from their parents that they

3.14 MJ 5102

have all had a difficult time adapting to the long hours and physically taxing work. S2's mother also learned from other parents that the 6 Guatemalan juveniles are required to pay rent to A.C.'s teenage son whenever they receive their paychecks. S2's mother stated that half of their paycheck is sent back to the parents in Guatemala and the other half is taken by A.C. as payment on each workers individual debt. S2's mother stated that approximately one month ago, A.C. left with a group of Guatemalan adults and juveniles and has not returned since. S2's mother opined that A.C. is either in the U.S. or has passed away because nobody has heard from him. When asked if S1 was paid any money to provide a safe haven for S2, S2's mother indicated that she was never required to pay S1 because S1 was helping S2 out of kindness and concern for S2's welfare.

21. On or about December 17, 2014, a court authorized federal search warrant was executed at Oakridge Estates, 6605 Marion-Agosta Road, Lot #7, #30, #36, #44, #45, #47, #188, #195, #198, #200, #213, #226, #229, #232, #233, and #246, in Marion, Ohio 43302, by agents from the FBI, HIS and ICE, among other law enforcement agencies.

22. On December 17, 2014, approximately 45 individuals, including multiple minor children, were relocated from the Oakridge Estates to the Hampton Inn in Wooster, Ohio.

3:14 MJ 5102

23. On December 17, 2014 and on December 17, 2014, multiple interviews were conducted at the Hampton Inn by law enforcement officials through Spanish interpreters. During the interviews, multiple witnesses informed federal law enforcement agents that BARTOLO DOMINGUEZ and CONRADO ULISES SALGADO-BORBAN repeatedly drove vans which are used to transport Guatemalan adults and juveniles to and from the egg farms, knowing that the individuals were illegally present in the United States and did not have the appropriate authorization to work.

24. During an interview conducted by your Affiant on December 17, 2014, one of the illegally present workers (hereinafter "W8") has been picked up from Oakridge Estates by BARTOLO DOMINGUEZ to the egg farms for approximately six months. W8 indicated to your Affiant BARTOLO DOMINGUEZ knew he/she was an illegally present worker, and W8 informed your Affiant that BARTOLO DOMINGUEZ was aware that all of the passengers on his vans were illegally present workers. Further, BARTOLO DOMINGUEZ took a portion of W8's paycheck each week, for his transportation services, prior to providing him/her with the balance of the weekly paycheck.

25. On December 17, 2014, FBI SA Fisher conducted a custodial interview of CONRADO ULISES SALGADO-BORBAN at the Marion Police Department in Marion, Ohio. After being advised his advice of rights in Spanish, CONRADO ULISES SALGADO-BORBAN

voluntarily admitted to FBI SA Fisher that (1) he drove a van from the Oakridge Estates to the egg farms, (2) he knew each of the workers were illegally present in the United States and did not have the appropriate authorization to work, and (3) he received compensation for transporting the illegally present workers to the egg farms.

CONCLUSION

26. Based upon your Affiant's training and experience, and information provided to your Affiant by Agents with FBI, HSI and ICE, this affidavit is submitted for the limited purpose of obtaining arrest warrants for BARTOLO DOMINGUEZ and CONRADO ULISES SALGADO-BORBAN in commission of criminal violations described herein.

27. Based upon the facts as set forth above, your Affiant believes there is sufficient probable cause for a court authorized criminal complaint and arrest warrant BARTOLO DOMINGUEZ and CONRADO ULISES SALGADO-BORBAN concerning violations of the following Federal statutes: Title 8, United States Code, Section 1324(a) (Concealing, Harboring, and Shielding Aliens from Detection for Financial Gain).

28. Special Agent Derek Kleinmann, Federal Bureau of Investigation, being duly sworn according to law, deposes and states that the facts contained in the foregoing Affidavit are

true and correct to the best of his knowledge, information, and belief.

s/ Derek Kleinmann
SA Derek Kleinmann
Federal Bureau of Investigation

Sworn to and subscribed ~~before me~~ by telephone this 19th day of December, 2014.

James R. Knepp II
Honorable James R. Knepp II
U.S. Magistrate Court Judge

Date: 6/26/2015

To: Bobbie Greg
Deputy Director for Children's Programs

From: Jim De La Cruz
Federal Field Supervisor

FEDERAL FIELD WEEKLY REPORT

I. Two-Week Look Ahead

[redacted]

II. Implementation of Program Priorities

[redacted]

[redacted]

III. **Emerging Issues and Opportunities**

- National:
  - The FBI informed DCS about a group of seven adults who were arrested and charged with trafficking in Ohio. Some of the individuals that are alleged victims are UC previously released from DCS. DCS provided information about the sponsor to the FBI who informed DCS that the Assistant US Attorney accepted the case to pursue prosecution against the adults.

[redacted]

[redacted]

[redacted]

[redacted]

- Northeast Region
  - **Abbott House:** Abbott House TRC program continues to have problems with the UC portal. **Portal Continues to erase data from some cases.** There are many times that information is put in & saved or documents uploaded but when we go back in it has been erased. Other times we are unable to save the information. We have called & sent emails to the help desk and they try to help us as much as possible but they acknowledge it is a system wide problem. When we are unable to save the information, the help desks informs us its because we are in putting too much information. This causes a dilemma because we are encouraged to input as much details into the portal to support the youths current and past functioning. This is an issue in almost all aspects of the portal but especially in the assessment tabs.

[redacted]

IV. Congressional Activities

- None

V. Other Items of Note

[redacted]

[redacted]

Message

From: Gregg, Bobbie (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP
[redacted]

Sent: 6/15/2015 3:42:34 PM

To: Greenberg, Mark (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Mark.Greenberg.ACF]

CC: Wolff, Kate (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Kate.Wolff.OS]; Swartz, Tricia (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Tricia.Swartz.acf]; Sualog, Jallyn (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Jallyn.Sualog.ACF]; Carey, Bob (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP
[redacted] Cancian, Maria (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP
[redacted]

Subject: RE: Additional Post-Release Services

Attachments: Interim Post Release Services Proposal_Draft_06152015.docx

Good afternoon.

I have revised the document per your suggestions to:

- quote TVPRA directly in the second paragraph,
- add language about the risk of exploitation for debt labor in the "Children Released to a Non-Relative Sponsor" section, and
- set time-limited eligibility of 6 months post-placement for Placement Disruption services.

I suggest we continue to consider these enhancements to the PRS program as a pilot. Historically, the budget for PRS has been based on the assumption that 10% of UCs would have home assessments and that same 10% would have post-release services. Although HHS is authorized to provide post-release services to children in addition to those who receive home studies, we did not include that contingency in the FY15 budget. The FY15 budget assumed that 10% of the projected 58,000 UCs would receive post-release services at a cost of $5,000 per capita. We are able to fund the pilot in FY15 because of the availability of additional funding that exists because our estimate of the FY15 UC population was so much higher than projected actual. If we continue the 10% assumption with the FY16 budget, but have a much smaller estimate of the total number of UCs, funding may not be available. By continuing to treat these enhancements are a pilot, we retain flexibility to continue the services in FY16 if we have funding available and if we determine after evaluating the pilot results that the pilot services are a better use of funding than other post-release options we are considering.

Bobbie

Bobbie Gregg
Deputy Director, Children's Services
Office of Refugee Resettlement
[redacted]

From: Greenberg, Mark (ACF)
Sent: Thursday, June 11, 2015 5:40 PM
To: Gregg, Bobbie (ACF); Carey, Bob (ACF); Cancian, Maria (ACF)
Cc: Wolff, Kate (ACF); Swartz, Tricia (ACF); Sualog, Jallyn (ACF)
Subject: RE: Additional Post-Release Services

Thanks. I'm, of course, very supportive of this and agree we should do it. I've inserted some questions/comments in the attached.

Mark Greenberg
Acting Assistant Secretary, Administration for Children and Families
US Department of Health and Human Services

From: Gregg, Bobbie (ACF)
Sent: Thursday, June 11, 2015 10:21 AM
To: Greenberg, Mark (ACF); Carey, Bob (ACF); Cancian, Maria (ACF)
Cc: Wolff, Kate (ACF); Swartz, Tricia (ACF); Sualog, Jallyn (ACF)
Subject: Additional Post-Release Services

Good morning.

As requested, effective July 1, 2015, the UC program will offer post-release services to the following additional populations of children:

- Children released to a category 3 (non-relative) sponsor;
- Children who report post-release to the UC Hotline that their placement has disrupted and that they are living in another household not previously vetted by ORR; and
- Children who report post-release to the UC Hotline that the placement is at risk of disruption (or their sponsors so report).

I have attached a one-pager that describes the planned expansion.

Regards,

Bobbie Gregg
Deputy Director, Children's Services
Office of Refugee Resettlement

Unaccompanied Children's Program
Interim Proposal to Expand Post-Release Services
June 10, 2015

The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires HHS to provide post-release services to children released to a sponsor after a home study has been conducted and authorizes HHS to provide post-release services to "children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency." In FY14, ORR released 53,518 unaccompanied children to sponsors, conducted 866 home studies, and provided post release services for 3,989 unaccompanied children (7%).

The TVPRA does not authorize HHS to provide post-release services in every case, but only for those "children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency." ORR is conducting a review of its current post-release services and considering what, if any, changes should be made to provide services to additional children and/or to amend the types of services offered. ORR will submit its recommendations to the Secretary by July 1, 2015. In the interim, ORR has identified certain children with "other needs" to whom ORR proposes to offer post-release services:

- children released to a non-relative sponsor and
- children whose placement has disrupted or is at risk of disruption.

Children Released to a Non-Relative Sponsor
A number of factors have been identified that increase the risk of child maltreatment including the presence of unrelated adults living in the home with a child and the age of the child.[1] There are other factors that increase the risk of exploitation of unaccompanied children by unrelated adults, including the risk that the sponsor may be expecting the child to work to pay existing debt or to cover the child's expenses while living with the sponsor. Finally, an unrelated adult may lack the type of affection for a child that results in prioritizing the child's well-being over other considerations. For all of these reasons, in identifying potential sponsors, ORR affords the lowest preference to and performs the most extensive background review of prospective sponsors who are unrelated to the unaccompanied child
In consideration of the increased risk of harm or exploitation to children released to a non-relative sponsor, ORR has identified this population of children as having "other needs" that perhaps would benefit from ongoing assistance from a social welfare agency. ORR proposes the following, effective July 1, 2015 through September 30, 2015:

- to provide post-release services to all children released to a non-relative, and
- to perform home studies before release for all children age 12 and under being released to a non-relative sponsor.

In FY14, ORR released 4,952 children to non-relative sponsors (9.2%) and through March 31, 2015, has released 751 children to non-relative sponsors (7%). ORR estimates that this would result in providing

[1] Centers for Disease Control and Prevention, Child Maltreatment: Risk and Protective Factors (May 29, 2015) http://www.cdc.gov/ViolencePrevention/childmaltreatment/riskprotectivefactors.html#Risk Factors for Perpetration

post-release services to an additional 250 children and performing home studies for approximately 65 of those children during the remainder of FY15.

Placement Disruption

Effective May 15, 2015, ORR expanded its Hotline to accept calls from UCs or their sponsors seeking assistance with safety-related concerns. To date, ORR has received a number of calls from youth and sponsors in situations in which the placement has disrupted or is at risk of disruption. Sponsor relationships have disrupted either as a result of the youth choosing not to live with the sponsor or the sponsor refusing to allow the youth to continue to live with the sponsor. Placements may be at risk of disruption for a number of reasons, including but not limited to conflict between the youth and the sponsor, sponsor neglect or abuse, or youth preference. When placement has disrupted, a youth is especially vulnerable to exploitation. Accordingly, ORR proposes effective July 1, 2015 through September 30, 2015, to offer post-release services to youth and/or sponsors within 180 days of placement when:

- placement has not yet disrupted, but is at risk of disruption, and
- placement has already disrupted and the UC is living in another household..

At this time, we are unable to estimate the number of children and sponsors likely to be served due to placement disruption or the types of services that these children and sponsor may need. The pilot will provide HHS with data from which to determine the scope of this need, as well as to identify whether any changes in pre-release practice would obviate the need for certain post-release services.

The proposed pilots can be funded through the FY15 budget without reprogramming or reducing any other services in the UC program. Continuation of this expansion of post-release services in FY16 will be dependent on funding and consideration of the entire array of post-release service options.

OFFICE OF REFUGEE RESETTLEMENT
Division of Children's Services
SPONSOR CARE AGREEMENT

Name of Minor:	**Minor A #:**
Aliases (if any):	**Minor DOB:**
Name of Sponsor:	**Date:**

You have applied to the Office of Refugee Resettlement (ORR) to sponsor an unaccompanied alien child in the care and custody of the Federal Government pursuant to the Flores v. Reno Stipulated Settlement Agreement, No. 85-4544-RJK (Px) (C.D. Cal., Jan. 17, 1997), Section 462 of the Homeland Security Act of 2002 and Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. If your sponsorship application is approved, you will receive an ORR *Verification of Release* form and will enter into a custodial arrangement with the Federal Government in which you agree to comply with the following provisions while the minor is in your care:

- Provide for the physical and mental well-being of the minor, including but not limited to, food, shelter, clothing, education, medical care and other services as needed.
- If you are not the minor's parent or legal guardian, make best efforts to establish legal guardianship with your local court within a reasonable time.
- Attend a legal orientation program provided under the Department of Justice/Executive Office of Immigration Review (EOIR)'s Legal Orientation Program for Custodians (Sponsors), if available where you reside.
- Depending on where the minor's immigration case is pending, notify the local Immigration Court or the Board of Immigration Appeals within five (5) days of any change of address or phone number of the minor, by using an Alien's Change of Address form (Form EOIR-33). In addition, if necessary, file a Change of Venue motion on the minor's behalf. The Change of Venue motion must contain information specified by the Immigration Court. Please note that a Change of Venue motion may require the assistance of an attorney. For guidance on the "motion to change venue," see the Immigration Court Practice Manual at http://www.justice.gov/eoir/vll/OCIJPracManual/ocij_page1.htm. For immigration case information please contact EOIR's immigration case information system at 1-800-898-7180. Visit EOIR's website for additional information at: http://www.justice.gov/eoir/formslist.htm
- Notify the Department of Homeland Security (DHS)/U.S. Citizenship and Immigration Services) within ten (10) days of any change of address, by filing an Alien's Change of Address Card (AR-11) or electronically, at http://1.usa.gov/Ac5MP
- Ensure the minor's presence at all future proceedings before the DHS/Immigration and Customs Enforcement (ICE) and the DOJ/EOIR. For immigration case information, contact EOIR's case information system at: 1-800-898-7180.
- Ensure the minor reports to ICE for removal from the United States if an immigration judge issues a removal order or voluntary departure order. The minor is assigned to a Deportation Officer for removal proceedings.
- Notify local law enforcement or your state or local Child Protective Services if the minor has been or is at risk of being subjected to abuse, abandonment, neglect, or maltreatment or if you learn that the minor has been threatened, has been sexually or physically abused or assaulted, or has disappeared. Notice should be given as soon as it becomes practicable or no later than 24 hours after the event or after becoming aware of the risk or threat.

- Notify the National Center for Missing and Exploited Children at 1-800-843-5678 if the minor disappears, has been kidnapped, or runs away. Notice should be given as soon as it becomes practicable or no later than 24 hours after learning of the minor's disappearance.
- Notify ICE if the minor is contacted in any way by an individual(s) believed to represent an alien smuggling syndicate, organized crime, or a human trafficking organization. Provide notification as soon as possible or no later than 24 hours after becoming aware of this information. You can contact ICE at 1-866-347-2423.
- In the case of an emergency (serious illness, destruction of home, etc), you may temporarily transfer physical custody of the minor to another person who will comply with the terms of this *Sponsor Care Agreement.*
- If you are not the child's parent or legal guardian, in the event you are no longer able and willing to care for the minor and unable to temporarily transfer physical custody, and the minor meets the definition of an unaccompanied alien child, you should notify ORR at 1-800-203-7001.
- The release of the above-named minor from the Office of Refugee Resettlement to your care does not grant the minor any legal immigration status and the minor must present himself/herself for immigration court proceedings.

From: Brandon, Cate (HHS/ASL)
To: Owen, Matt (HSGAC); Tucker, Rachael (HSGAC); Beras, Mel (HSGAC)
Cc: Barstow, Kevin (HHS/ASL)
Subject: Follow up on ORR custody question
Date: Wednesday, January 20, 2016 2:18:42 PM

Hi Matt,

As we have previously noted, the longstanding policy of ORR is that once a child is released to a sponsor, ORR's custody terminates. This reading is supported by the authorizing laws, as well as the Flores settlement agreement.

- **Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA).**
  - Structure of the statute. The law organizes Federal custody and release into two different paragraphs, placing the conditions for Federal custody in (c)(2), whereas the conditions for release and post-release appear in (c)(3). 8 U.S.C. § 1232(c).
  - Use of the term "custodian" for a proposed sponsor. HHS must make a determination that a "proposed *custodian* is capable of providing for the child's physical and mental well-being," and HHS must verify the "custodian's" identity and relationship to the child, prior to release. 8 U.S.C. § 1232(c)(3)(A) (emphasis added).
  - Post-release provisions. The TVPRA would not have needed post-release provisions if Federal custody were on-going. Continuing legal custody would authorize HHS to monitor and follow-up on all children at any time. Instead, Congress specifically required follow-up services on children for whom a home study was conducted and authorized follow-up services for certain other children with mental health or other needs. 8 U.S.C. § 1232(c)(3)(B).
  - Legal orientation for "custodians." Section 1232(c)(4) similarly recognizes that "custodians" will receive a legal orientation presentation, in order to address the "custodian's responsibility" to ensure the child's appearance at immigration proceedings.
  - Legal services for children who are and "were" in HHS custody. Section 1232(c)(5) discusses both children "who are" in the custody of HHS as well as those who "*have been* in the custody of the Secretary" (emphasis added). This language again recognizes that there are certain children who continue to technically meet the definition of a UC, but who are no longer in the custody of HHS.
- **Flores Settlement Agreement**
  - ¶ 9 – distinguishes between "detention" and "release" of minors, recognizing that release is separate and distinct from custody.
  - ¶ 14 – Except where HHS determines that detention is required to secure timely appearance in immigration proceedings or to ensure the minor's safety or that of others, requiring "release" from government "custody" without unnecessary delay, in an order of preference.
  - Other paragraphs continue to use the term "release." See ¶¶ 17-18.
  - ¶ 19 – states that in any case in which "INS does not release a minor pursuant to Paragraph 14, the minor shall remain in INS legal custody." This clearly shows that INS legal custody remained distinct from release; once released, a minor would no longer be viewed as in the legal custody of the Federal government.
- **Other**
  - If Congress had intended HHS to retain legal custody post-release, there would be greater detail in the TVPRA, similar to State procedures for child foster care, such as foster care maintenance payments and payment for health care expenditures of UC post-release. Congress did not include any such terms.

Thanks,

Cate

Cate Brandon, J.D.
Senior Counsel
Oversight & Investigations
Office of the Assistant Secretary for Legislation
U.S. Department of Health and Human Services
[redacted]

Message

From: Sualog, Jallyn (ACF) [/O=HHS EES/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=JALLYN.SUALOG.ACF]
Sent: 7/8/2015 12:24:33 PM
To: Gregg, Bobbie (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP
[redacted]
CC: Swartz, Tricia (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Tricia.Swartz.acf]; Johnson, Harmony (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP[redacted]Bena, Anna Marie (HHS/OGC) (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=annamarie.bena.os]; Wolff, Kate (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Kate.Wolff.OS]
Subject: PRS paper
Attachments: Post-Release Services Report ORR draft 06252015 mg rev -js edits.docx

Attached with responses to Mark's comments.

Jallyn Sualog
Director
Office of Refugee Resettlement
Division of Children's Services
[redacted]

Unclassified// For Official Use Only

To: [redacted]
Through: **Acting Deputy Secretary Wakefield**

Through: **ACF Acting Assistant Secretary Greenberg**
From: **ORR Deputy Director Bobbie Gregg**
Subject: **Report on Post-Release Services for Unaccompanied Children**
Date: **July 1, 2015**

Executive Summary

Historically, the Office of Refugee Resettlement (ORR) has provided post-release services to approximately 10% of children released to sponsors from the Unaccompanied Children's (UC) program each year. Advocates have encouraged ORR to provide such services to all UC. ORR recently conducted a review of its post-release services, and in writing this report, also considered the legislative history and statutory construction of controlling federal law, domestic child welfare best practice, and stakeholder feedback.

Findings:

1. Controlling federal law requires HHS to provide post-release services for an unaccompanied child for whom HHS conducted a home study. In these cases, the services must be provided for the duration of the removal proceedings. However, the statute leaves the scope and type of post-release services to HHS discretion.
2. The statute authorizes HHS to provide post-release services for children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency. The statute leaves the scope and type of post-release services, as well as the duration of the services, to HHS discretion.
3. ORR has not clearly defined its goals and objectives for the post-release services program and the current program structure does not allow flexibility to individualize services based on need.
4. The most common post-release service needs of UC are:
    a. assistance in gaining enrollment in local public schools,
    b. assistance in locating counsel to represent the UC in legal proceedings,
    c. assistance in gaining access to services in the local community, and
    d. support navigating the challenges attendant to adjustment to a new family structure and community.

Key Recommendations:

1. ORR should enhance its pre-release services to provide UC and sponsors with additional preparation and resources to aid in post-release adjustment.
2. ORR should enhance its post-release services to:
    a. define eligibility for services for UC with mental health and other needs,
    b. clarify and document post-release services program objectives, policies, and procedures to allow flexibility to increase or reduce intensity of services, as needed, and
    c. provide greater assistance enrolling UC in local schools and making referrals for legal and other service providers in the sponsor's community.

Background

The Homeland Security Act of 2002[1] transferred responsibility for care and placement of unaccompanied children to the Director of the Office of Refugee Resettlement within the Department of Health and Human Services. This statute describes in general terms the responsibilities of ORR in caring for UC, but does not address provision of post-release or legal services. In 2008, the Trafficking Victims Protection Reauthorization Act (TVPRA) set forth requirements with respect to those services.

One focus of TVPRA is to prevent trafficking and exploitation of unaccompanied children. To that end, TVPRA requires that ORR make a suitability determination before releasing a child to a sponsor, even if that sponsor is the child's parent or legal guardian, including determining whether a home study is necessary. ORR is required to perform a home study to determine that a prospective sponsor's home is safe when:

1. the child is a victim of a severe form of trafficking in persons,
2. the child is a special needs child with a disability (as defined in 42 U.S.C. § 12102),
3. the child has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or
4. the proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence.

In addition, TVPRA authorizes ORR to provide post-release services in cases involving children with "mental health or other needs who could benefit from ongoing assistance from a social welfare agency." Notably, the statute does not authorize ORR to provide post-release services for all UC. Congress required the identification of a specific need or needs that would then lead to additional services, rather than including language that would allow all UC to receive post-release services. Thus, while ORR has broad authority to specify a wide range of needs for which post-release services may be required, concrete criteria for such needs must be established and children must be evaluated to determine whether they meet the criteria for the identified need(s).

The statute requires ORR to continue to provide some form of post-release services "during the pendency of removal proceedings" to children for whom a home study was conducted. However, in cases in which ORR has determined that a child has mental health or "other needs," the statute grants ORR discretion to determine the length of time in which to provide services after UC are released. The statute similarly grants ORR broad discretion to determine the types of services to be provided.

TVPRA also requires the Secretary of HHS to "the greatest extent practicable" to arrange for UC to have counsel to represent them in legal proceedings services, though it imposes no requirement to provide government-paid counsel. In fact, the statute instructs HHS "to make every effort" to use pro bono counsel who will provide their services to UC without charge to the federal government.

During the summer of 2014, ACF received multiple questions and inquiries about what services and supports were provided to unaccompanied children after their release from ORR custody, and began exploring with staff and stakeholders issues relating to the adequacy of current post-placement services and possible expansions. After ORR Director Bob Carey and ORR Deputy Director for Children's

[1] The relevant sections of the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act of 2008 are printed in Appendix A.

Programs Bobbie Gregg joined ORR, Acting Assistant Secretary Mark Greenberg asked that ORR prepare by July 1 an analysis of current post-placement efforts and recommendations for improvements.

Overview of Current Post-Release Services

ORR has described the primary purpose of post-release services in some program documents as to assist in successful integration of the child into the sponsor home and community, whereas in other program documents the primary purpose is described as assuring a safe environment and protection from abuse, trafficking and exploitation. Similarly, although TVPRA was passed "to enhance the efforts of the United States to prevent trafficking in person," the statute broadly authorizes HHS to provide post-release services unrelated to safety concerns for "children with mental health and other needs who could benefit from ongoing assistance from a social welfare agency." In this context, advocates have complained that ORR's priorities and goals for the post-release services (PRS) program are not clear.

Post-release services are provided by nine ORR grantees that were selected from the 2013 Funding Opportunity Announcement (FOA) for the FY14-FY16 funding cycle.[2] The services begin immediately upon release of the child to the sponsor. ORR has specified process requirements for time periods for and frequency of contact with the UC and sponsor and provided general guidance about the types of services that may be provided.

The post-release service provider is required to establish telephone contact with the sponsor within 24 hours of release to ensure that the minor is safe and well, and to schedule the initial home visit, which should occur within 14 days of the child's release. During the first visit, the provider conducts an assessment of the child's initial adjustment to the placement, identifies special needs, and explores sources of additional support. Although each provider is required to conduct an assessment, ORR has provided only general guidance with respect to the expected content of that assessment.

A post-release service provider is expected to meet with the child at least three times during the first six- month period following release to the sponsor. Post-release services may be conducted through a combination of home visits, telephone contacts, written correspondence, community referrals, provision of psycho-educational materials and linking the family or child to support groups.

Post-release worker are expected to assist the child with successful integration into the home and community by providing referrals to help the child with locating legal representation, verifying school enrollment, obtaining guardianship, connecting with medical, mental health and social services, and encouraging attendance at legal proceedings. Some of the post-release providers also encourage community support by engaging in outreach to educate community stakeholders about the needs of UC and their sponsors.

For cases in which no home study was mandated, post-release services are provided for six months or when the provider determines that services are no longer needed, whichever occurs first. Services can be extended beyond six months, upon express ORR approval. Approximately 3% of post release cases are extended to assist with placement disruptions, medical and mental health needs and transition to a

[2] The nine providers are BCFS Health and Human Services, Florence Crittenton, Heartland Human Care Services, Lutheran Immigration and Refugee Services (LIRS), MercyFirst, Southwest Key Programs, Inc. (SWK), The Children's Village, Inc., United States Conference of Catholic Bishops (USCCB), and U.S. Committee for Refugees and Immigrants (USCRI).

new community. In some instances, extensions are at sponsors request for more assistance in managing the child's behavior. For post-release services provided after a home study, the post-release service provider conducts, at a minimum, quarterly phone calls and an annual visit for the duration of removal proceedings or until the minor turns 18, whichever occurs first.

In preparing this report, ORR reviewed the various assessment tools and service models employed by the post-release service providers. One provider has implemented a service model with three levels of services based on an assessment of intensity of need. The providers utilize three methods of service delivery: a national model where workers from a central location travel to the UC to conduct the assessment, a national model with regional locations from which employees are assigned to provide services to UC in their regions, and a national oversight model in which independent contractors are retained in the UC community to deliver services.

If at any time the post-release provider has concerns about the safety and well-being of the child, the worker is required to make a report to the state or local child welfare agency, ORR, and, if appropriate, law enforcement. The worker cooperates in any investigation and advocates on the child's behalf, which may lead to the child welfare agency subsequently removing the child and placing him or her into state or county custody.

On May 15, 2015, ORR expanded its post-release services by offering a Help Line (the ORR National Call Center) for children and sponsors to call for assistance with safety-related concerns and other needs. As part of the release process, all children and sponsors are provided with information about this service, and children are provided a wallet card with the Help Line phone number. In the first month, ORR received 25 calls from children and sponsors in situations in which the placement had disrupted or was at risk of disruption. The Help Line is operated by BCFS Health and Human Services, an ORR grantee. When a sponsor or former UC contacts the Help with a disruption or potential disruption of a placement, the Help Line will first assess for safety to determine if there is risk to the safety of the child. If there is a safety risk, the Help Line will contact local authorities such as Child Protective Services or law enforcement. If there is not a safety risk, the helpline will make an assessment whether there has been a disruption or a potential disruption and will offer the sponsor resources to help with resolving the issues between sponsor and child.

Sponsor relationships disrupt either as a result of the youth choosing not to live with the sponsor or the sponsor refusing to allow the youth to continue to live with the sponsor. Placements may be at risk of disruption for a number of reasons, including but not limited to conflict between the youth and the sponsor, sponsor neglect or abuse, or youth preference. When placement has disrupted, a youth is especially vulnerable to exploitation. Accordingly, ORR has already proposed on a pilot basis to offer post-release services to children placed for less than six months if the placement has disrupted and the child is no longer living with the sponsor or the placement appears at risk of disruption.

The proposed pilot expands the category of cases that receives home studies and post-release services to children released to a non-relative sponsor (Category 3) and children whose placement has disrupted or is at risk of disruption. During the pilot, all children age 12 and under who are being released to a non-relative sponsor (category 3) will receive both a home study and post release services. Released children within 180 days of placement if placement has already disrupted and the child or sponsor has contacted the ORR Help Line, voluntary agrees to services and has been referred by the Help Line will be provided post release services.

Overview of Current Legal Services

TVPRA requires HHS to arrange for legal services for unaccompanied children to the greatest extent practicable, though there is no express requirement in the law to provide government-paid counsel. Historically, legal services and the PRS program have been treated as if they were separate and distinct. However, post-release service providers currently are required to provide assistance and referrals locating legal representation for UC referred to the PRS program, which is a service that stakeholder surge ORR to provide to all UC.

ORR currently has two mechanisms for providing legal services to unaccompanied children:

- A "Legal Access" contract with the Vera Institute of Justice, which provides Know Your Rights presentations, screenings, *pro bono* recruitment and limited direct representation. The contract is due to expire on July 31, 2015.
- A "Direct Representation Project" grant, started in September 2014, currently funds two grantees to provide direct representation and child advocates in nine cities and has a planned budget period through September 30, 2015. The cities supported are: Memphis, Dallas, DC area (Arlington/Baltimore), Houston, Los Angeles, Phoenix, Miami, and New Orleans.

The current Legal Access program provides attorneys to represent unaccompanied children in a very limited number of cases. Instead, the program provides "Know Your Rights" presentations for children in ORR custody; legal screenings for potential immigration relief; "Friend of the Court" assistance in specific cases; and child advocates to make best interest determinations for children who are victims of trafficking or are especially vulnerable. For the legal screenings, an immigration attorney, BIA-accredited representative, or paralegal conducts a private interview with the child to determine whether he or she potentially qualifies for some type of immigration relief, or is eligible for voluntary departure. Currently, the legal service providers lack capacity to provide direct representation to every child referred from the legal screening.

The program secures private attorneys to represent unaccompanied children in immigration proceedings in one of two ways. First, the program funds efforts to recruit and train pro bono counsel. Second, it pays for direct representation services, but only for certain populations, including unaccompanied children in long-term foster care (these are typically children for whom no qualified sponsor has been found in the U.S., and who have been determined, through the legal screening described above, to be likely eligible for immigration relief); unaccompanied children in ORR custody who will not be released to a sponsor and seek voluntary departure or are expected to be ordered removed; those identified as likely to be released locally, or within the jurisdiction of the local immigration court; and children released in the nine priority cities within a high concentration of UC.

On June 16, 2015, ORR issued two new Request For Proposals (RFP) for contracts to provide legal services to unaccompanied children. One RFP seeks multiple regionally-based vendors to provide all legal services to UC, utilizing a three-year option contract beginning August 1, 2015. The other supports a national child advocate program at select sites where large numbers of unaccompanied children are in ORR care and custody.

The new model will allow more flexibility and increase capacity in much-needed areas not reached by the current single-contractor structure, thus providing more direct representation and other services to the increased number of unaccompanied children. The new model will keep all legal services under one

umbrella, maximizing coordination and organization, and move child advocates to a separate contract, allowing that program to receive specialized attention.

- ORR will continue to fund Know Your Rights presentations and legal screenings for all children referred, even if the number of referrals reaches the FY14 level of 58,000.
- ORR is proposing doubling the funding for *pro-bono* coordination, which will help identify and train attorneys across the country to represent unaccompanied children likely to receive legal relief during their immigration proceedings.
- In addition to increased coordination of *pro-bono* attorneys, ORR is proposing to provide direct representation or court appearance support to approximately 15,000 unaccompanied children. This is an expansion of existing representation services and the post-release Direct Representation pilot project, which were expected to serve approximately 2,600 children in FY15.

The new contracts will continue to focus on providing post-release direct representation in the nine priority cities and to children who are released from a shelter locally. However, even with the expansion of direct representation, ORR will only be able to facilitate access to legal services for a small number of children who have been released to sponsors in FY14 and FY15.

The appointment of a child advocate to vulnerable UC in ORR custody can ensure the child's best interests are identified. The child advocate spends time with the UC and speaks with the child's clinician, case manager, teachers, and other shelter staff to understand the child's current situation (for example, education, therapeutic services, social support, etc.). The child advocate helps the child process information and explains the consequences of decisions, and assists the child to make decisions in situations in which the child requests help. The new expansion contract will fund the implementation of child advocate services in Brownsville, Houston, Chicago, Newark/New York City, Washington, DC/Baltimore, Maryland, Phoenix, San Antonio and Miami.

In addition, the expanded ORR Help Line offers assistance to sponsors in finding legal support in their community. There may be an opportunity with the new legal services contract award to link the Help Line and legal service providers for collaboration.

Stakeholder Feedback

ORR sought input from key stakeholders during this review of its post-release services, including participating in two listening sessions with child advocates and post-release services provider – one in Texas and one in Washington.[3] In addition, ORR considered the results of limited UC and sponsor feedback from a survey conducted by a UC services provider in FY11 and FY12 and reviewed recent stakeholder reports, including the Post Release Study conducted by the University of South Carolina and funded by Lutheran Immigration and Refugee Service (LIRS), an ORR post-release service provider.[4] The consistent recommendation from those sources was that ORR should expand post-release services and legal representation to all unaccompanied children throughout their legal proceedings.

Specific recommendations from providers and advocates about the types of post-release services to be provided included:

[3] The participants of the listening sessions are listed in Appendix B to this report.

[4] The reports consulted during this review are listed in Appendix C to this report.

- Support integration of unaccompanied children through a grant program to support ongoing education, health, and mental health services for child migrants in the communities in which they live;
- Clarify the goals and objectives for the post-release services program;
- Restructure the post-release services program to standardize assessment tools used and to adopt a therapeutic case management model, but allow flexibility to provide a continuum of services and beyond six months, as individualized to meet the needs of the particular child and sponsor;
- Provide support groups in communities with a sufficient UC presence;
- Leverage resources through coordination and linkages in the community; and
- Provide outreach and technical assistance to community providers, local child welfare agencies and schools that serve unaccompanied children.

Some recommendations focused on pre-release services to better prepare children and sponsors for the challenges they will face when the child is released, including:

- Consider the prospective sponsor 's place of residence when selecting shelter placement to facilitate communication and intervention before children are released;
- Increase the length of stay before release to a sponsor to provide more intensive pre-release services;
- Require pre-release family counseling sessions;
- Provide more pre-release preparation of sponsors.

In recognition that post-release and legal services might continue to be available only to some unaccompanied children and not all, some recommendations were focused on decision-making about the allocation of services:

- Allow referrals to post-release services after release as well as before release;
- Provide greater guidance on the scope of the TVPRA categories for home study (and, thus, post-release services);
- Provide post-release services to all children released to a non-relative sponsor and those released to a relative sponsor with whom previous recent contact has been limited;
- Provide post-release services to children when the child or the sponsor's primary language is a dialect (and not Spanish or English); and
- Improve coordination among the federal agencies that engage with unaccompanied children.

Finally, advocates and providers recommended that a formal evaluation of the program be conducted.

A small group of sponsors and children who received post-release services were surveyed in FY 2011 and FY 2012. They reported that their greatest needs were:

- assistance with immigration cases;
- financial support;
- help for the sponsor seeking employment;
- assistance obtaining medical and mental health services, including substance abuse treatment;
- parenting education; and
- counseling and support services to address family conflict.

ORR Self-Assessment

Post-release services are provided by nine ORR grantees to which ORR has provided general guidance about the types of services that may be provided. Although ORR currently does not conduct any formal monitoring of the PRS program, ORR staff that oversees the PRS program has identified many of the same gaps in service as those described by providers and advocates, including a need for ORR to:

- more clearly define the goals and objectives of the post-release services program and clarify eligibility requirements. This lack of clarity has made it challenging to standardize outcomes and service provision.
- standardize PRS program procedures, assessment and reporting. Standardization of PRS will provide ORR with the ability for oversight, accountability and the means to ensure consistency within service provisions.
- integrate post-release data and case management into the UC Portal system. This action would facilitate oversight and program evaluation.
- create a mechanism of referral to post-release services once the child is placed with the sponsor as specific needs, such as family conflict, child conduct, or financial stress, may not be evident before release to the sponsor.
- provide flexibility in determining the length of post-release services. Currently, if post-release services are provided when no home study was required, services are limited to 6 months. Instead, clients should be evaluated regularly to determine their need for continued services.
- expand post-release and legal services to more children to meet the two most critical needs of education assistance and legal access, within the statutory restriction that post-release services cannot generally be provided to all unaccompanied children without identified needs.

Child Welfare Best Practices

UC placement with a sponsor is often similar to family reunification that occurs when children have been in the child welfare system due to abuse or neglect or are when a child is placed for adoption with a new family. In all three instances, there is a period of adjustment or re-adjustment as the individuals learn to live together as a family unit. Similarly, in all three instances, family conflict, behavioral issues, and mental health needs may become apparent only after the family unit has lived together for some period. Accordingly, the literature on best practices for family reunification and post-adoption services were reviewed to identify best practices identified to address these common problems[5]

The services routinely provided to families reunifying or forming through adoption include pre-reunification or pre-placement home study, parenting education, structured pre-placement home visits, and clinical services. With post-placement, the following services were provided:

- Clinical services;
- Therapeutic case management;
- Community services and support network;
- Financial and other material support;
- Crisis intervention services; and
- Respite services.

Recommendations

[5] A partial list of literature reviewed is in Appendix D to this report.

The recommendations that follow and the specific program enhancements required to implement them were informed by stakeholder feedback, consideration of child welfare best practice and ORR self-assessment, which are described in this report. Although stakeholders unanimously recommend post-release services for all unaccompanied children, HHS lacks statutory authority to implement such broad reform. In the absence of such authority, this review has identified enhancements to pre-release services that would benefit all UCs and targeted enhancements to post-release services that would expand the scope and refine the quality of post-release services to children and sponsors who receive them.

1. ORR should enhance its pre-release services to provide UC and sponsors with additional preparation and resources to aid in post-release adjustment.
2. ORR should enhance its post-release services to:
    a. define eligibility for services for UC with mental health and other needs,
    b. clarify and document post-release services program objectives, policies, and procedures to allow flexibility to increase or reduce intensity of services, as needed, and
    c. provide greater assistance enrolling UC in local schools and making referrals for legal and other service providers in the sponsor's community.

To implement these recommendations, ORR proposes the following enhancements to the Unaccompanied Children's Program:

- During intakes the residence of the prospective sponsor should be considered when identifying shelter or foster care placement. This will facilitate pre-release contact between the UC and sponsor, as well as pre-placement observation of sponsor and child interaction and pre-release family counseling.
- ORR should set standards for minimum pre-release contact and family counseling.
- ORR should provide more pre-release education to sponsors about the behaviors that children may display after release as a result of trauma, long periods of separation, child and adolescent development, and/or acculturation and offer advice on how to respond to such behaviors.
- ORR should provide clearer guidance to ORR's child-care providers on the scope of TVPRA home study requirements, including:
    - clarifying how to identify whether a child has been a victim of physical or sexual abuse "under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened;" and
    - describing the factors to be considered in determining whether the available objective evidence demonstrates that a proposed sponsor "clearly presents a risk of abuse, maltreatment, exploitation, or trafficking."
- ORR should provide guidance on additional factors to consider in determining whether a home study is necessary, including for example, whether the prospective sponsor has any prior relationship with the UC.
- ORR should provide guidance on the mental health and other needs of UC for which post-release services must be provided.
- ORR should require the pre-release service provider to follow-up with each sponsor and child by telephone at 30 days after release to ensure the safety and well-being of the child and to determine whether there are any needs for referral or support. Any safety issues will be referred to the local child welfare. Any potential for disruption should be referred to post release services.

- ORR should enhance the resources and education provided to UC and sponsors pre-release to better prepare them for post-release readjustment.
- ORR should expand the Help Line to provide a broader array of services and supports to UC sponsors, including assistance:
    - locating resources in the community for education, medical care, mental health counseling,
    - problem-solving to address child behavioral issues after release,
    - support with family relationships and problems,
    - enrolling UC in school, and
    - finding legal support and understanding court processes and the importance of attending scheduled court hearings
- ORR should clarify its program goals and objectives, standardize assessment tools and outcome measures, and document its policies and procedures.
- ORR should modify its post-release services program to provide individualized service array and length of service based on defined levels of need.
- ORR should set standards to allow the Help Line to refer children for post-release services after placement.

ORR concurs with the recommendation that an evaluation be conducted of its post-release services. GAO and ASPE are conducting reviews of the UC Program that may include information relating to post-release services. These reports will likely be available in FY16 and ORR intends to carefully review and consider any recommendations provided

Budget Impact of Recommendations

The post-release telephone calls, development of sponsor education materials, and operation of the Help Line can be accommodated through the current funding levels of the shelter and Help Line providers. Based on historical trends and data, ORR has established is post-release services budget based on an assumption that 10% of children would receive home studies and post-release services at a unit cost of $1,200 for the study and $5,000 for services. Current FY15 funding is sufficient to implement the recommended programmatic changes in this fiscal year, but further analysis will be required to develop budget assumptions and assess impact for future fiscal year budgets.

Implementation Plan

The Help Line was expanded in May 2015 to provide support and assistance to UC and sponsors after release. Further steps will be taken to communicate about the availability of this resource and the scope of its services. The timeline for implementation of other recommendations in this report follows.

Post Release Services Proposal Timeline		
Service	Task	Timeframe
ORR Help Line	Expansion of Parent Hotline to provide UC a resource for safety-related concerns , as well as sponsor resources for assistance with family problems and child behavior issues, referrals to community providers, and assistance finding legal support and enrolling UC in school.	**Completed May 15, 2015**

Post Release Services Proposal Timeline		
Service	**Task**	**Timeframe**
PRS Pilot	Proposed expansion of post-release services to: • all UC released to a non-relative sponsor and • UC whose placement has disrupted or is at risk of disruption within 180 days of release	July 1, 2015
30-Day Status Check	Draft policy, procedure and phone checklist and establish protocol for referral to Help Line and/or PRS program for follow up	August 1, 2015
Policy Guidance	Publishing policy and other guidance to clarify: • how to identify whether a child has been a victim of physical or sexual abuse "under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened;" • the factors to be considered in determining whether the available objective evidence demonstrates that a proposed sponsor "clearly presents a risk of abuse, maltreatment, exploitation, or trafficking;" • additional factors to consider in determining whether a home study is necessary, including for example, whether the prospective sponsor has any prior relationship with the UC; and • the mental health and other needs of UC for which post-release services must be provided.	August 15, 2015
Enhance Pre-Release Resources	• Create UC Handbook that provides hot line and help line telephone numbers for safety concerns; links to resources for runaway/homeless youth; information about human trafficking; and other resources to help UCs adjust to school, family and cultural transitions. • Update Sponsor Handbook that includes sponsorship responsibilities, children's rights, parenting techniques, and child behavioral warning signs • Create Sponsor Orientation Video that covers children's rights, U.S. requirements on education and abuse, immigration court attendance, behavioral issues and parenting techniques.	October 1, 2015
Integrate Home Study and Post-Release Services into Portal	Standardize program data collection and oversight through utilization of Portal case management system	October 1, 2015
Standardize	• Draft Funding Opportunity Announcement with	January 2016

Post Release Services Proposal Timeline		
Service	**Task**	**Timeframe**
Program Model	new standardized post-release services model • Finalize grantee selection • Document polies and procedures for new service model	May 2016 June 2016

Appendix A

The Homeland Security Act of 2002 and TVPRA of 2008 will be attached as pdf documents in the final draft.

Appendix B

The following organizations were represented at the listening session in Houston, Texas on June 2, 2015:

Catholic Charities, Cabrini Center for Immigrant Legal Assistance

Civil Practice Clinics, Randall O. Sorrels Legal Clinics at the South Texas College of Law

Human Rights First

Kids in Need of Defense (KIND)

ProBar

RAICES (Refugee and Immigrant Center for Education and Legal Services)

Save the Children

South Texas College of Law

Tahirih Justice Center

Texas Health and Human Services Commission, Office of Immigration and Refugee Affairs

The Children's Center

The Young Center for Immigrant Children's Rights

University of Houston Law Center Immigration Clinic

University of Houston, Graduate College of Social Work

The following organizations were represented at the listening session in Washington, DC on June 5, 2015:

Heartland Alliance- National Immigrant Justice Center

Kids in Need of Defense (KIND)

Lutheran Immigrant and Refugee Service (LIRS)

The Young Center

U.S. Committee for Refugees and Immigrants (USCRI)

United States Conference of Catholic Bishops (USCCB)

University of South Carolina, author of LIRS evaluation report

Women's Refugee Commission

Appendix C

The following reports were consulted during this review:

Musalo, K., Frydman, L. & Cernadas, P.C. (2015). Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges. Center for Gender and Refugee Studies. http://cgrs.uchastings.edu/Childhood-Migration-HumanRights

Rosenblum, M.R. (2015). Unaccompanied Child Migration to the United States: The Tension between Protection and Prevention. Migration Policy Institute. http://www.migrationpolicy.org/research/unaccompanied-child-migration-united-states-tension-between-protection-and-prevention

Roth, B.J & Grace, B.L., (2015). Post Release Services: Linking Unaccompanied Immigrant Children to Family and Community. University of South Carolina.

Goździak, E.M. (2015). What Kind of Welcome: Integration of Central American Unaccompanied Children into Local Communities. Georgetown University. http://www.researchgate.net/publication/272167810_What_Kind_of_Welcome_Integration_of_Central_American_Unaccompanied_Children_Into_Local_Communities

Appendix D

A partial list of the literature reviewed in preparation of this report:

Bellamy, J.L. (2008). Behavioral Problems Following Reunification of Children in Long Term Foster Care. Child Youth Services Review, 30(2), 216-228.

Child Welfare Information Gateway. (2012). Adoption disruption and dissolution. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

Child Welfare Information Gateway. (2012). Providing postadoption services. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

Child Welfare Information Gateway. (2012). Finding and Using Postadoption Services. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

Child Welfare Information Gateway. (2012). Adoption Disruption and Dissolution. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

Child Welfare Information Gateway (2015, May). Review of various articles on reunification after a foster care placement and post-adoption services. Retrieved from https://www.childwelfare.gov/topics/permanency/reunification/

Evan B. Donaldson Adoption Institute (2004). What's working for children: A policy study of adoption stability and termination. Retrieved from http://www.adoptioninstitute.org/ publications/Disruption_Report.pdf

Festinger, T. (2002). After adoption: Dissolution or permanence? Child Welfare, 81(3), 515–533.

Goerge, R. M., Howard, E. C., Yu, D., & Radomsky, S. (1997). Adoption, disruption, and displacement in the child welfare system, 1976-94. Chicago: University of Chicago, Chapin Hall Center for Children.

Honomichl, R, Hatton, H., & Brooks, S. (2009, May). Factors, Characteristics, and Promising Practices Related to Reunification and Re-entry: A Literature Review for the Peer Quality Case Review Process. Northern California Training Academy, The Center for Human Services, Timely Reunification and Reunification Foster Care and Child Welfare Services. Retrieved from www.childsworld.ca.gov/res/pdf/FactorsCharacteristics.pdf

Howard, J. & Elmore, J. (2015, May). Illinois Committed to Preserving Adoptions. North American Council on Adoptable Children (NACAC) Retrieved from http://www.nacac.org/postadopt/models.html).

Illinois Department of Children & Family Services (DCFS)(2015, January). Post Adoption and Guardianship Services. Retrieved from www.illinois.gov/dcfs/.../CFS%201050-45%20Post%20A-G%20S

Kirk, R.S., Martens, P. (2014, March). Family Assessment, Family Functioning, and Caregiver Engagement in Family Preservation and Reunification Programs, and the Relation of These and Other Factors to Reunification Service Outcomes. National Family Preservation Network. Retrieved from http://www.nacac.org/postadopt/models.html

Kunz, D.B. (2014). A Presentation to the Interagency Working Group on Secondary Placements. Center for Adoption Policy (provided by author to Elaine Kelley/HHS/ACF/ORR on May 13, 2015).

National Family Preservation Network (2015, May). Intensive Family Reunification Services (IFRS) Model. Retrieved from http://nfpn.org/reunification/reunification-model

North American Council on Adoptable Children (2015, May). Model Post-Adoption Services. Retrieved http://www.nacac.org/postadopt/models.html

Wulczyn, F., Hislop, K., & George, R., (2000). Foster care dynamics 1983–1998. Chicago: Chapin Hall Center for Children. Retrieved from http://www.chapinhall.org

Message

From: Gregg, Bobbie (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP [redacted]

Sent: 7/16/2015 7:42:18 PM

To: Greenberg, Mark (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Mark.Greenberg.ACF]; Carey, Bob (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP [redacted] Cancian, Maria (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=[redacted]

CC: Bena, Anna Marie (HHS/OGC) (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=annamarie.bena.os]; Johnson, Harmony (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP [redacted] Sualog, Jallyn (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Jallyn.Sualog.ACF]; Swartz, Tricia (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Tricia.Swartz.acf]; Wolff, Kate (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Kate.Wolff.OS]

Subject: RE: Post-Release Services Report

Attachments: Post-Release Services Report ORR draft 06252015 mg rev_ORR 071162015 .docx

Attached is the revised draft.

Bobbie Gregg
Deputy Director, Children's Services
Office of Refugee Resettlement
[redacted]

From: Greenberg, Mark (ACF)
Sent: Friday, June 26, 2015 11:50 AM
To: Gregg, Bobbie (ACF); Carey, Bob (ACF); Cancian, Maria (ACF)
Cc: Bena, Anna Marie (HHS/OGC) (ACF); Johnson, Harmony (ACF); Kelley, Elaine (ACF); Sualog, Jallyn (ACF); Swartz, Tricia (ACF); Wolff, Kate (ACF)
Subject: RE: Post-Release Services Report

Thanks very much, Bobbie, and everyone who worked on this. I think this is very thoughtful, and tremendously helpful in mapping out a strategy for strengthening our pre- and post placement efforts. I'm very comfortable with the recommendations. I have inserted a number of comments, some of which are just about adding additional detail, but others are about some additional questions we should consider. Once you've read this over, you should decide if it'd be useful to schedule time to discuss some of these, or if you just want to work on edits.

Re timeframe, I really don't think it's essential that we get this to the Secretary's office by July 1 --- I think it's sufficient that you got it to us by July 1, that we're discussing a set of issues, and we should be in position to get this to the Secretary's office within the next few weeks.

Mark Greenberg
Acting Assistant Secretary, Administration for Children and Families
US Department of Health and Human Services
[redacted]

From: Gregg, Bobbie (ACF)
Sent: Thursday, June 25, 2015 12:22 PM
To: Greenberg, Mark (ACF); Carey, Bob (ACF); Cancian, Maria (ACF)
Cc: Bena, Anna Marie (HHS/OGC) (ACF); Johnson, Harmony (ACF); Kelley, Elaine (ACF); Sualog, Jallyn (ACF); Swartz, Tricia (ACF); Wolff, Kate (ACF)
Subject: Post-Release Services Report

Good afternoon.

Attached is the draft PRS report.

BG

Bobbie Gregg
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To: [redacted]
Through: **Acting Deputy Secretary Wakefield**

Through: **ACF Acting Assistant Secretary Greenberg**
From: **ORR Deputy Director Bobbie Gregg**
Subject: **Report on Post-Release Services for Unaccompanied Children**
Date: **JulyXX, 2015**

Executive Summary

Historically, the Office of Refugee Resettlement (ORR) has provided post-release services to approximately 10% of children released to sponsors from the Unaccompanied Children's (UC) program each year. Advocates have encouraged ORR to provide such services to all UC. ORR recently conducted a review of its post-release services, and in writing this report, also considered the legislative history and statutory construction of controlling federal law, domestic child welfare best practice, and stakeholder feedback.

Findings:

1. Controlling federal law requires HHS to provide post-release services for an unaccompanied child for whom HHS conducted a home study. In these cases, the services must be provided for the duration of the removal proceedings. However, the statute leaves the scope and type of post-release services to HHS discretion.
2. The statute authorizes HHS to provide post-release services for children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency. The statute leaves the scope and type of post-release services, as well as the duration of the services, to HHS discretion.
3. ORR has not clearly defined its goals and objectives for the post-release services program and the current program structure does not allow flexibility to individualize services based on need.
4. The most common post-release service needs of UC are:
    a. assistance in gaining enrollment in local public schools,
    b. assistance in locating counsel to represent the UC in legal proceedings,
    c. assistance in gaining access to services in the local community, and
    d. support navigating the challenges attendant to adjustment to a new family structure and community.

Key Recommendations:

1. ORR should enhance its pre-release services to provide UC and sponsors with additional preparation and resources to aid in post-release adjustment.
2. ORR should enhance its post-release services to:
    a. define eligibility for services for UC with mental health and other needs,
    b. clarify and document post-release services program objectives, policies, and procedures to allow flexibility to increase or reduce intensity of services, as needed, and
    c. provide greater assistance enrolling UC in local schools and making referrals for legal and other service providers in the sponsor's community.

Background

The Homeland Security Act of 2002[1] transferred responsibility for care and placement of unaccompanied children to the Director of the Office of Refugee Resettlement within the Department of Health and Human Services. This statute describes in general terms the responsibilities of ORR in caring for UC, but does not address provision of post-release or legal services. In 2008, the Trafficking Victims Protection Reauthorization Act (TVPRA) set forth requirements with respect to those services.

One focus of TVPRA is to prevent trafficking and exploitation of unaccompanied children. To that end, TVPRA requires that ORR make a suitability determination before releasing a child to a sponsor, even if that sponsor is the child's parent or legal guardian, including determining whether a home study is necessary. ORR is required to perform a home study to determine that a prospective sponsor's home is safe when:

1. the child is a victim of a severe form of trafficking in persons,
2. the child is a special needs child with a disability (as defined in 42 U.S.C. § 12102),
3. the child has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or
4. the proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence.

In addition, TVPRA authorizes ORR to provide post-release services in cases involving children with "mental health or other needs who could benefit from ongoing assistance from a social welfare agency." Congress required the identification of a specific need or needs that would then lead to additional services, rather than including language that would allow all UC to receive post-release services automatically without a determination of need. Thus, while ORR has broad authority to specify a wide range of needs for which post-release services may be required, criteria for such needs must be established and children evaluated to determine whether they meet the criteria). ORR may specify general categories of need, such as "children under age 12" or "children of school age" for post-release services, as well as more targeted categories that would require evaluation or assessment to determine eligibility, such as "children with an individualized education plan."

The TVPRA more requires ORR to establish policies and programs as needed to protect unaccompanied children from such victimization. Pursuant to this authority, ORR has implemented a Help Line for UC and sponsors to contact for assistance and proposes to implement a policy requiring care providers to conduct 30-day post-release phone calls to determine that the UC is safe and to offer assistance identifying resources and problem-solving.
The statute requires ORR to continue to provide some form of post-release services "during the pendency of removal proceedings" to children for whom a home study was conducted. However, in cases in which ORR has determined that a child has mental health or "other needs," the statute grants ORR discretion to determine the length of time in which to provide services after UC are released. The statute similarly grants ORR broad discretion to determine the types of services to be provided.

TVPRA also requires the Secretary of HHS to "the greatest extent practicable" to arrange for UC to have counsel to represent them in legal proceedings services, though it imposes no requirement to provide

[1] The relevant sections of the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act of 2008 are printed in Appendix A.

government-paid counsel. In fact, the statute instructs HHS "to make every effort" to use pro bono counsel who will provide their services to UC without charge to the federal government.

During the summer of 2014, ACF received multiple questions and inquiries about what services and supports were provided to unaccompanied children after their release from ORR custody, and began exploring with staff and stakeholders the adequacy of current post-placement services and possible expansions. After ORR Director Bob Carey and ORR Deputy Director for Children's Services Bobbie Gregg joined ORR, Acting Assistant Secretary Mark Greenberg asked that ORR prepare by July 1 an analysis of current post-placement efforts and recommendations for improvements.

Overview of Current Post-Release Services

ORR has described the primary purpose of post-release services in some program documents as to assist in successful integration of the child into the sponsor home and community, whereas in other program documents the primary purpose is described as assuring a safe environment and protection from abuse, trafficking and exploitation. Similarly, although TVPRA was passed "to enhance the efforts of the United States to prevent trafficking in person," the statute broadly authorizes HHS to provide post-release services unrelated to safety concerns for "children with mental health and other needs who could benefit from ongoing assistance from a social welfare agency." In this context, advocates have complained that ORR's priorities and goals for the post-release services (PRS) program are not clear.

Post-release services are provided by nine ORR grantees that were selected from the 2013 Funding Opportunity Announcement (FOA) for the FY14-FY16 funding cycle.[2] The services begin immediately upon release of the child to the sponsor. ORR has specified process requirements for time periods for and frequency of contact with the UC and sponsor and provided general guidance about the types of services that may be provided.

Each post-release service provider is required to be able to provide services in any U.S. location. One provider has a single location from which it dispatches employees to conduct the initial home visit and assessment. Three of the providers retain local independent contractors to conduct the initial home visit and assessment, and four providers have regional offices from which staff is assigned to conduct the initial home visit and assessment. They all provide referrals to community resources and all further contact via telephone.

The post-release service providers submit quarterly and annual reports and maintain case records of their contacts with sponsors and children. They report that the most common referrals and services are locating legal representation in the sponsor's community, assisting with and/or verifying school enrollment, providing assistance in obtaining guardianship, encouraging attendance at legal proceedings, connecting sponsors to medical, mental health, and social services, and offering emotional support and problem-solving with family issues. Through June 30, the providers conducted home studies of and provided post-release services to XXX sponsors and children and provided post-release services only to an additional x,xxx children and their sponsors in FY15.

[2] The nine providers are BCFS Health and Human Services, Florence Crittenton, Heartland Human Care Services, Lutheran Immigration and Refugee Services (LIRS), MercyFirst, Southwest Key Programs, Inc. (SWK), The Children's Village, Inc., United States Conference of Catholic Bishops (USCCB), and U.S. Committee for Refugees and Immigrants (USCRI).

The post-release service provider is required to establish telephone contact with the sponsor within 24 hours of release to ensure that the minor is safe and well, and to schedule the initial home visit, which should occur within 14 days of the child's release. During the first visit, the provider conducts an assessment of the child's initial adjustment to the placement, identifies special needs, and explores sources of additional support. Although each provider is required to conduct an assessment, ORR has provided only general guidance with respect to the expected content of that assessment.

A post-release service provider is expected to meet with the child at least three times during the first six- month period following release to the sponsor. Post-release services may be conducted through a combination of home visits, telephone contacts, written correspondence, community referrals, provision of psycho-educational materials and linking the family or child to support groups.

Post-release worker are expected to assist the child with successful integration into the home and community by providing referrals to help the child with locating legal representation, verifying school enrollment, obtaining guardianship, connecting with medical, mental health and social services, and encouraging attendance at legal proceedings. Some of the post-release providers also encourage community support by engaging in outreach to educate community stakeholders about the needs of UC and their sponsors.

For cases in which no home study was mandated, post-release services are provided for six months or when the provider determines that services are no longer needed, whichever occurs first. Services can be extended beyond six months, upon express ORR approval. Approximately 3% of post-release cases are extended to assist with placement disruption, medical and mental health needs, transition to a new community, and assistance managing the child's behavior. For post-release services provided after a home study, the post-release service provider conducts, at a minimum, quarterly phone calls and an annual visit for the duration of removal proceedings or until the minor turns 18, whichever occurs first.

In preparing this report, ORR reviewed the various assessment tools and service models employed by the post-release service providers. One provider has implemented a service model with three levels of services based on an assessment of intensity of need. The providers utilize three methods of service delivery: a national model where workers from a central location travel to the UC to conduct the assessment, a national model with regional locations from which employees are assigned to provide services to UC in their regions, and a national oversight model in which independent contractors are retained in the UC community to deliver services.

If at any time the post-release provider has concerns about the safety and well-being of the child, the worker is required to make a report to the state or local child welfare agency, ORR, and, if appropriate, law enforcement. The worker cooperates in any investigation and advocates on the child's behalf, which may lead to the child welfare agency subsequently removing the child and placing him or her into state or county custody.

On May 15, 2015, ORR expanded its post-release services by offering a Help Line (the ORR National Call Center) for children and sponsors to call for assistance with safety-related concerns and other needs. As part of the release process, all children and sponsors are provided with information about this service, and children are provided a wallet card with the Help Line phone number. In the first month, ORR received 25 calls from children and sponsors in situations in which the placement had disrupted or was at risk of disruption.

The Help Line is operated by BCFS Health and Human Services, an ORR grantee. When a sponsor or former UC contacts the Help Line with a disruption or potential disruption of a placement, the Help Line first assesses to determine if there is risk to the safety of the child. If there is a safety risk, the Help Line will contact local authorities such as Child Protective Services or law enforcement immediately. If there is not a safety risk, the Help Line will determine whether the placement has or is at risk of disruption due issues in the home.
Sponsor relationships disrupt either as a result of the youth choosing not to live with the sponsor or the sponsor refusing to allow the youth to continue to live with the sponsor. Placements may be at risk of disruption for a number of reasons, including but not limited to conflict between the youth and the sponsor, sponsor neglect or abuse, or youth preference. When placement has disrupted, a youth is especially vulnerable to exploitation. Accordingly, effective July 1, ORR has implemented on a pilot basis providing post-release services to children placed for less than six months if the placement has disrupted and the child is no longer living with the sponsor or the placement appears at risk of disruption. In other circumstances of disruption or risk of disruption, the Help Line offers referrals to community resources and provides counseling, emotional support, and problem-solving to sponsors and UC via telephone.

Overview of Current Legal Services
TVPRA requires HHS to arrange for legal services for unaccompanied children to the greatest extent practicable, though there is no express requirement in the law to provide government-paid counsel. Historically, legal services and the PRS program have been treated as if they were separate and distinct. However, post-release service providers currently are required to provide assistance and referrals locating legal representation for UC referred to the PRS program, which is a service that stakeholder surge ORR to provide to all UC. The following information outlines the current approach to legal services, providing context to recent changes to the program model and funding increases. At this time there are no further recommendations regarding legal services, but an understanding of the capacity of the program is informative to the discussion about post-release services as a whole.

ORR currently has two mechanisms for providing legal services to unaccompanied children, which provide Know Your Rights presentations and legal screening to all UC referred to ORR care, and direct representation or court appearance support to approximately 6,000 children in FY14:

- A "Legal Access" contract with the Vera Institute of Justice, which provides Know Your Rights presentations, screenings, *pro bono* recruitment and limited direct representation. The contract is due to expire on July 31, 2015.
- A "Direct Representation Project" grant, started in September 2014, currently funds two grantees to provide direct representation and child advocates in nine cities and has a planned budget period through September 30, 2015. The cities supported are: Memphis, Dallas, DC area (Arlington/Baltimore), Houston, Los Angeles, Phoenix, Miami, and New Orleans.

The current Legal Access program provides attorneys to represent unaccompanied children in a very limited number of cases. Instead, the program provides "Know Your Rights" presentations for children in ORR custody; legal screenings for potential immigration relief; "Friend of the Court" assistance in specific cases; and child advocates to make best interest determinations for children who are victims of trafficking or are especially vulnerable. For the legal screenings, an immigration attorney, Bureau of Immigration Appeals-accredited representative, or paralegal conducts a private interview with the child to determine whether he or she potentially qualifies for some type of immigration relief, or is eligible for voluntary departure. Currently, the legal service providers lack capacity to provide direct representation to every child referred from the legal screening.

The program secures private attorneys to represent unaccompanied children in immigration proceedings in one of two ways. First, the program funds efforts to recruit and train pro bono counsel. Second, it pays for direct representation services, but only for certain populations, including unaccompanied children in long-term foster care (these are typically children for whom no qualified sponsor has been found in the U.S., and who have been determined, through the legal screening described above, to be likely eligible for immigration relief); unaccompanied children in ORR custody who will not be released to a sponsor and seek voluntary departure or are expected to be ordered removed; those identified as likely to be released locally, or within the jurisdiction of the local immigration court; and children released in the nine priority cities within a high concentration of UC.

In June 2015, ORR issued two new Request For Proposals (RFP) for contracts to provide legal services to unaccompanied children. One RFP seeks multiple regionally-based vendors to provide all legal services to UC, utilizing a three-year option contract beginning August 1, 2015. The solicitation also expands funding for legal services to provide direct representation or court appearance support to approximately 15,000 unaccompanied children, both in care and post release. (ORR is not able to estimate the number of UC represented through pro-bono services.) The other supports a national child advocate program at select sites where large numbers of unaccompanied children are in ORR care and custody.

The new model will allow more flexibility and increase capacity in much-needed areas not reached by the current single-contractor structure, thus providing more direct representation and other services to the increased number of unaccompanied children. The new model will keep all legal services under one umbrella, maximizing coordination and organization, and move child advocates to a separate contract, allowing that program to receive specialized attention.

- ORR will continue to fund Know Your Rights presentations and legal screenings for all children referred, even if the number of referrals reaches the FY14 level of 58,000.
- ORR is proposing doubling the funding for *pro-bono* coordination, which will help identify and train attorneys across the country to represent unaccompanied children likely to receive legal relief during their immigration proceedings.
- In addition to increased coordination of *pro-bono* attorneys, ORR is proposing to provide direct representation or court appearance support to approximately 15,000 unaccompanied children. This is an expansion of existing representation services and the post-release Direct Representation pilot project, which were expected to serve approximately 2,600 children in FY15.

The new contracts will continue to focus on providing post-release direct representation in the nine priority cities and to children who are released from a shelter locally. However, even with the expansion of direct representation, ORR will only be able to facilitate access to legal services for a small number of children who have been released to sponsors in FY14 and FY15.

The appointment of a child advocate to vulnerable UC in ORR custody can ensure the child's best interests are identified. The child advocate spends time with the UC and speaks with the child's clinician, case manager, teachers, and other shelter staff to understand the child's current situation (for example, education, therapeutic services, social support, etc.). The child advocate helps the child process information and explains the consequences of decisions, and assists the child to make decisions in situations in which the child requests help. The new expansion contract will fund the implementation of child advocate services in Brownsville, Houston, Chicago, Newark/New York City, Washington, DC/Baltimore, Maryland, Phoenix, San Antonio and Miami.

In addition, the expanded ORR Help Line offers assistance to sponsors in finding legal support in their community. There may be an opportunity with the new legal services contract award to link the Help Line and legal service providers for collaboration.

Stakeholder Feedback

ORR sought input from key stakeholders during this review of its post-release services, including participating in two listening sessions with child advocates and post-release services provider – one in Texas and one in Washington.[3] ORR also received feedback and suggestions from providers who were submitted them independently to ORR staff. In addition, ORR considered the results of limited UC and sponsor feedback from a survey conducted by a UC services provider in FY11 and FY12 and reviewed recent stakeholder reports, including the Post Release Study conducted by the University of South Carolina and funded by Lutheran Immigration and Refugee Service (LIRS), an ORR post-release service provider.[4] The consistent recommendation from those sources was that ORR should expand post-release services and legal representation to all unaccompanied children throughout their legal proceedings.

Specific recommendations from providers and advocates about the types of post-release services to be provided included:

- Support integration of unaccompanied children through a grant program to support ongoing education, health, and mental health services for child migrants in the communities in which they live;
- Clarify the goals and objectives for the post-release services program;
- Restructure the post-release services program to standardize assessment tools used and to adopt a therapeutic case management model, but allow flexibility to provide a continuum of services and beyond six months, as individualized to meet the needs of the particular child and sponsor;
- Provide support groups in communities with a sufficient UC presence;
- Leverage resources through coordination and linkages in the community; and
- Provide outreach and technical assistance to community providers, local child welfare agencies and schools that serve unaccompanied children.

Some recommendations focused on pre-release services to better prepare children and sponsors for the challenges they will face when the child is released, including:

- Consider the prospective sponsor 's place of residence when selecting shelter placement to facilitate communication and intervention before children are released;
- Increase the length of stay before release to a sponsor to provide more intensive pre-release services;
- Require pre-release family counseling sessions;
- Provide more pre-release preparation of sponsors.

In recognition that post-release and legal services might continue to be available only to some unaccompanied children and not all, some recommendations were focused on decision-making about the allocation of services:

[3] The participants of the listening sessions are listed in Appendix B to this report.

[4] The reports consulted during this review are listed in Appendix C to this report.

- Allow referrals to post-release services after release as well as before release;
- Provide greater guidance on the scope of the TVPRA categories for home study (and, thus, post-release services);
- Provide post-release services to all children released to a non-relative sponsor and those released to a relative sponsor with whom previous recent contact has been limited;
- Provide post-release services to children when the child or the sponsor's primary language is a dialect (and not Spanish or English); and
- Improve coordination among the federal agencies that engage with unaccompanied children.

Finally, advocates and providers recommended that a formal evaluation of the program be conducted.

A small group of sponsors and children who received post-release services were surveyed in FY 2011 and FY 2012. They reported that their greatest needs were:

- assistance with immigration cases;
- financial support;
- help for the sponsor seeking employment;
- assistance obtaining medical and mental health services, including substance abuse treatment;
- parenting education; and
- counseling and support services to address family conflict.

ORR Self-Assessment

Post-release services are provided by nine ORR grantees to which ORR has provided general guidance about the types of services that may be provided. Although ORR currently does not conduct any formal monitoring of the PRS program, ORR staff that oversees the PRS program has identified many of the same gaps in service as those described by providers and advocates, including a need for ORR to:

- more clearly define the goals and objectives of the post-release services program and clarify eligibility requirements. This lack of clarity has made it challenging to standardize outcomes and service provision.
- standardize PRS program procedures, assessment and reporting. Standardization of PRS will provide ORR with the ability for oversight, accountability and the means to ensure consistency within service provisions.
- integrate post-release data and case management into the UC Portal system. This action would facilitate oversight and program evaluation.
- create a mechanism of referral to post-release services once the child is placed with the sponsor as specific needs, such as family conflict, child conduct, or financial stress, may not be evident before release to the sponsor.
- provide flexibility in determining the length of post-release services. Currently, if post-release services are provided when no home study was required, services are limited to 6 months. Instead, clients should be evaluated regularly to determine their need for continued services.
- expand post-release and legal services to more children to meet the two most critical needs of education assistance and legal access, within the statutory restriction that post-release services cannot generally be provided to all unaccompanied children without identified needs.

Child Welfare Best Practices

UC placement with a sponsor is often similar to family reunification that occurs when children have been in the child welfare system due to abuse or neglect or are when a child is placed for adoption with a new family. In all three instances, there is a period of adjustment or re-adjustment as the individuals learn to live together as a family unit. Similarly, in all three instances, family conflict, behavioral issues, and mental health needs may become apparent only after the family unit has lived together for some period. Accordingly, the literature on best practices for family reunification and post-adoption services were reviewed to identify best practices identified to address these common problems[5]

The services routinely provided to families reunifying or forming through adoption include pre-reunification or pre-placement home study, parenting education, structured pre-placement home visits, and clinical services. With post-placement, the following services were provided:

- Clinical services;
- Therapeutic case management;
- Community services and support network;
- Financial and other material support;
- Crisis intervention services; and
- Respite services.

Recommendations

The recommendations that follow and the specific program enhancements required to implement them were informed by stakeholder feedback, consideration of child welfare best practice and ORR self-assessment, which are described in this report. Although stakeholders unanimously recommend post-release services for all unaccompanied children, HHS through this review has identified enhancements to pre-release services that would benefit all UCs and targeted enhancements to post-release services that would expand the scope and refine the quality of post-release services to children and sponsors who receive them.

1. ORR should enhance its pre-release services to provide UC and sponsors with additional preparation and resources to aid in post-release adjustment.
2. ORR should enhance its post-release services to:
    a. define eligibility for services for UC with mental health and other needs,
    b. clarify and document post-release services program objectives, policies, and procedures to allow flexibility to increase or reduce intensity of services, as needed, and
    c. provide greater assistance enrolling UC in local schools and making referrals for legal and other service providers in the sponsor's community.

To implement these recommendations, ORR proposes the following enhancements to the Unaccompanied Children's Program:

- During intakes the residence of the prospective sponsor should be considered when identifying shelter or foster care placement. This will facilitate pre-release contact between the UC and sponsor, as well as pre-placement observation of sponsor and child interaction and pre-release family counseling.
- ORR should set standards for minimum pre-release contact and family counseling.

[5] A partial list of literature reviewed is in Appendix D to this report.

- ORR should provide more pre-release education to sponsors about the behaviors that children may display after release as a result of trauma, long periods of separation, child and adolescent development, and/or acculturation and offer advice on how to respond to such behaviors.
- ORR should provide clearer guidance to ORR's child-care providers on the scope of TVPRA home study requirements, including:
    - clarifying how to identify whether a child has been a victim of physical or sexual abuse "under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened;" and
    - describing the factors to be considered in determining whether the available objective evidence demonstrates that a proposed sponsor "clearly presents a risk of abuse, maltreatment, exploitation, or trafficking."
- ORR should provide guidance on additional factors to consider in determining whether a home study is necessary, including for example, whether the prospective sponsor has any prior relationship with the UC.
- ORR should provide guidance on the mental health and other needs of UC for which post-release services must be provided.
- ORR should require the pre-release service provider to follow-up with each sponsor and child by telephone at 30 days after release to ensure the safety and well-being of the child and to determine whether there are any needs for referral or support. Any safety issues will be referred to the local child welfare agency. Placements at risk of disruption (or that have already disrupted) will be referred for post-releases services. In addition, the calls will be used to confirm school enrollment and to offer assistance if enrollment has not occurred.
- ORR should enhance the resources and education provided to UC and sponsors pre-release to better prepare them for post-release readjustment.
- ORR should expand the Help Line to provide a broader array of services and supports to UC sponsors, including assistance:
    - locating resources in the community for education, medical care, mental health counseling,
    - problem-solving to address child behavioral issues after release,
    - support with family relationships and problems,
    - enrolling UC in school, and
    - finding legal support, encouraging attendance at all scheduled court hearings, and referring sponsors to the toll-free USCIS National Customer Service Center for assistance understanding court processes.
- ORR should clarify its program goals and objectives, standardize assessment tools and outcome measures, and document its policies and procedures.
- ORR should modify its post-release services program to provide individualized service array and length of service based on defined levels of need.
- ORR should set standards to allow the Help Line to refer children for post-release services after placement.

ORR concurs with the recommendation that an evaluation be conducted of its post-release services. GAO and ASPE are conducting reviews of the UC Program that may include information relating to post-release services. These reports will likely be available in FY16 and ORR intends to carefully review and consider any recommendations provided.

Budget Impact of Recommendations

The post-release telephone calls, development of sponsor education materials, and operation of the Help Line can be accommodated through the current funding levels of the shelter and Help Line providers. Based on historical trends and data, ORR has established is post-release services budget based on an assumption that 10% of children would receive home studies and post-release services at a unit cost of $1,200 for the study and $5,000 for services. Current FY15 funding is sufficient to implement the recommended programmatic changes in this fiscal year, but further analysis will be required to develop budget assumptions and assess impact for future fiscal year budgets.

Implementation Plan

The Help Line was expanded in May 2015 to provide support and assistance to UC and sponsors after release. Further steps will be taken to communicate about the availability of this resource and the scope of its services. The timeline for implementation of other recommendations in this report follows.

Post Release Services Proposal Timeline		
Service	**Task**	**Timeframe**
ORR Help Line	Expansion of Parent Hotline to provide UC a resource for safety-related concerns , as well as sponsor resources for assistance with family problems and child behavior issues, referrals to community providers, and assistance finding legal support and enrolling UC in school.	**Completed May 15, 2015**
PRS Pilot	Proposed expansion of post-release services to: • all UC released to a non-relative sponsor and • UC whose placement has disrupted or is at risk of disruption within 180 days of release	**Completed July 1, 2015**
30-Day Status Check	Draft policy, procedure and phone checklist and establish protocol for referral to Help Line and/or PRS program for follow up	August 15, 2015
Policy Guidance	Publishing policy and other guidance to clarify: • how to identify whether a child has been a victim of physical or sexual abuse "under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened;" • the factors to be considered in determining whether the available objective evidence demonstrates that a proposed sponsor "clearly presents a risk of abuse, maltreatment, exploitation, or trafficking;" • additional factors to consider in determining whether a home study is necessary, including for example, whether the prospective sponsor has any prior relationship with the UC; and • the mental health and other needs of UC for which post-release services must be provided.	September 15, 2015
Support Enrollment in Local Public Schools	• Continue partnership with Department of Education to reinforce existing messages to schools about the rights of UC to access to public education.	September 15, 2005

Post Release Services Proposal Timeline		
Service	**Task**	**Timeframe**
Enhance Pre-Release Resources	• Create UC Handbook that provides hot line and help line telephone numbers for safety concerns; links to resources for runaway/homeless youth; information about human trafficking; and other resources to help UCs adjust to school, family and cultural transitions. • Update Sponsor Handbook that includes sponsorship responsibilities, children's rights, parenting techniques, and child behavioral warning signs • Create Sponsor Orientation Video that covers children's rights, U.S. requirements on education and abuse, immigration court attendance, behavioral issues and parenting techniques. • Continue work with the Department of Education to develop UC-specific fact sheets for sponsors to use when enrolling UC in local public school	October 1, 2015
Integrate Home Study and Post-Release Services into Portal	Standardize program data collection and oversight through utilization of Portal case management system	October 1, 2015
Standardize Program Model	• Draft Funding Opportunity Announcement with new standardized post-release services model • Finalize grantee selection • Document polies and procedures for new service model	January 2016 May 2016 June 2016

Appendix A

The Homeland Security Act of 2002 and TVPRA of 2008 will be attached as pdf documents in the final draft.

Appendix B

The following organizations were represented at the listening session in Houston, Texas on June 2, 2015:

Catholic Charities, Cabrini Center for Immigrant Legal Assistance

Civil Practice Clinics, Randall O. Sorrels Legal Clinics at the South Texas College of Law

Human Rights First

Kids in Need of Defense (KIND)

ProBar

RAICES (Refugee and Immigrant Center for Education and Legal Services)

Save the Children

South Texas College of Law

Tahirih Justice Center

Texas Health and Human Services Commission, Office of Immigration and Refugee Affairs

The Children's Center

The Young Center for Immigrant Children's Rights

University of Houston Law Center Immigration Clinic

University of Houston, Graduate College of Social Work

The following organizations were represented at the listening session in Washington, DC on June 5, 2015:

Heartland Alliance- National Immigrant Justice Center

Kids in Need of Defense (KIND)

Lutheran Immigrant and Refugee Service (LIRS)

The Young Center

U.S. Committee for Refugees and Immigrants (USCRI)

United States Conference of Catholic Bishops (USCCB)

University of South Carolina, author of LIRS evaluation report

Women's Refugee Commission

Appendix C

The following reports were consulted during this review:

Musalo, K., Frydman, L. & Cernadas, P.C. (2015). Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges. Center for Gender and Refugee Studies. http://cgrs.uchastings.edu/Childhood-Migration-HumanRights

Rosenblum, M.R. (2015). Unaccompanied Child Migration to the United States: The Tension between Protection and Prevention. Migration Policy Institute. http://www.migrationpolicy.org/research/unaccompanied-child-migration-united-states-tension-between-protection-and-prevention

Roth, B.J & Grace, B.L., (2015). Post Release Services: Linking Unaccompanied Immigrant Children to Family and Community. University of South Carolina.

Goździak, E.M. (2015). What Kind of Welcome: Integration of Central American Unaccompanied Children into Local Communities. Georgetown University. http://www.researchgate.net/publication/272167810_What_Kind_of_Welcome_Integration_of_Central_American_Unaccompanied_Children_Into_Local_Communities

Appendix D

A partial list of the literature reviewed in preparation of this report:

Bellamy, J.L. (2008). Behavioral Problems Following Reunification of Children in Long Term Foster Care. Child Youth Services Review, 30(2), 216-228.

Child Welfare Information Gateway. (2012). Adoption disruption and dissolution. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

Child Welfare Information Gateway. (2012). Providing postadoption services. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

Child Welfare Information Gateway. (2012). Finding and Using Postadoption Services. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

Child Welfare Information Gateway. (2012). Adoption Disruption and Dissolution. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

Child Welfare Information Gateway (2015, May). Review of various articles on reunification after a foster care placement and post-adoption services. Retrieved from https://www.childwelfare.gov/topics/permanency/reunification/

Evan B. Donaldson Adoption Institute (2004). What's working for children: A policy study of adoption stability and termination. Retrieved from http://www.adoptioninstitute.org/ publications/Disruption_Report.pdf

Festinger, T. (2002). After adoption: Dissolution or permanence? Child Welfare, 81(3), 515–533.

Goerge, R. M., Howard, E. C., Yu, D., & Radomsky, S. (1997). Adoption, disruption, and displacement in the child welfare system, 1976-94. Chicago: University of Chicago, Chapin Hall Center for Children.

Honomichl, R, Hatton, H., & Brooks, S. (2009, May). Factors, Characteristics, and Promising Practices Related to Reunification and Re-entry: A Literature Review for the Peer Quality Case Review Process. Northern California Training Academy, The Center for Human Services, Timely Reunification and Reunification Foster Care and Child Welfare Services. Retrieved from www.childsworld.ca.gov/res/pdf/FactorsCharacteristics.pdf

Howard, J. & Elmore, J. (2015, May). Illinois Committed to Preserving Adoptions. North American Council on Adoptable Children (NACAC) Retrieved from http://www.nacac.org/postadopt/models.html).

Illinois Department of Children & Family Services (DCFS)(2015, January). Post Adoption and Guardianship Services. Retrieved from www.illinois.gov/dcfs/.../CFS%201050-4S%20Post%20A-G%20S

Kirk, R.S., Martens, P. (2014, March). Family Assessment, Family Functioning, and Caregiver Engagement in Family Preservation and Reunification Programs, and the Relation of These and Other Factors to Reunification Service Outcomes. National Family Preservation Network. Retrieved from http://www.nacac.org/postadopt/models.html

Kunz, D.B. (2014). A Presentation to the Interagency Working Group on Secondary Placements. Center for Adoption Policy (provided by author to Elaine Kelley/HHS/ACF/ORR on May 13, 2015).

National Family Preservation Network (2015, May). Intensive Family Reunification Services (IFRS) Model. Retrieved from http://nfpn.org/reunification/reunification-model

North American Council on Adoptable Children (2015, May). Model Post-Adoption Services. Retrieved http://www.nacac.org/postadopt/models.html

Wulczyn, F., Hislop, K., & George, R., (2000). Foster care dynamics 1983–1998. Chicago: Chapin Hall Center for Children. Retrieved from http://www.chapinhall.org

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JENNY LISETTE FLORES, et al.,	)	Case No. CV 85-4544-RJK(Px)
	)	
Plaintiffs,	)	Stipulated Settlement
	)	Agreement
-vs-	)	
	)	
JANET RENO, Attorney General	)	
of the United States, et al.,	)	
	)	
Defendants.	)	

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/ / /

STIPULATED SETTLEMENT AGREEMENT

WHEREAS, Plaintiffs have filed this action against Defendants, challenging, *inter alia*, the constitutionality of Defendants' policies, practices and regulations regarding the detention and release of unaccompanied minors taken into the custody of the Immigration and Naturalization Service (INS) in the Western Region; and

WHEREAS, the district court has certified this case as a class action on behalf of all minors apprehended by the INS in the Western Region of the United States; and

WHEREAS, this litigation has been pending for nine (9) years, all parties have conducted extensive discovery, and the United States Supreme Court has upheld the constitutionality of the challenged INS regulations on their face and has remanded for further proceedings consistent with its opinion; and

WHEREAS, on November 30, 1987, the parties reached a settlement agreement requiring that minors in INS custody in the Western Region be housed in facilities meeting certain standards, including state standards for the housing and care of dependent children, and Plaintiffs' motion to enforce compliance with that settlement is currently pending before the court; and

WHEREAS, a trial in this case would be complex, lengthy and costly to all parties concerned, and the decision of the district court would be subject to appeal by the losing parties with the final outcome uncertain; and

WHEREAS, the parties believe that settlement of this action is in their best interests and best serves the interests of justice by avoiding a complex, lengthy and costly trial, and subsequent appeals which could last several more years;

NOW, THEREFORE, Plaintiffs and Defendants enter into this Stipulated Settlement Agreement

(the Agreement), stipulate that it constitutes a full and complete resolution of the issues raised in this action, and agree to the following:

I DEFINITIONS

As used throughout this Agreement the following definitions shall apply:

1. The term "party" or "parties" shall apply to Defendants and Plaintiffs. As the term applies to Defendants, it shall include their agents, employees, contractors and/or successors in office. As the term applies to Plaintiffs, it shall include all class members.

2. The term "Plaintiff" or "Plaintiffs" shall apply to the named plaintiffs and all class members.

3. The term "class member" or "class members" shall apply to the persons defined in Paragraph 10 below.

4. The term "minor" shall apply to any person under the age of eighteen (18) years who is detained in the legal custody of the INS. This Agreement shall cease to apply to any person who has reached the age of eighteen years. The term "minor" shall not include an emancipated minor or an individual who has been incarcerated due to a conviction for a criminal offense as an adult. The INS shall treat all persons who are under the age of eighteen but not included within the definition of "minor" as adults for all purposes, including release on bond or recognizance.

5. The term "emancipated minor" shall refer to any minor who has been determined to be emancipated in an appropriate state judicial proceeding.

6. The term "licensed program" shall refer to any program, agency or organization that is licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children, including a program operating group homes, foster homes, or facilities for special needs minors. A licensed program must also meet those standards for licensed programs set forth in

Exhibit 1 attached hereto. All homes and facilities operated by licensed programs, including facilities for special needs minors, shall be non-secure as required under state law; provided, however, that a facility for special needs minors may maintain that level of security permitted under state law which is necessary for the protection of a minor or others in appropriate circumstances, *e.g.*, cases in which a minor has drug or alcohol problems or is mentally ill. The INS shall make reasonable efforts to provide licensed placements in those geographical areas where the majority of minors are apprehended, such as southern California, southeast Texas, southern Florida and the northeast corridor.

7. The term "special needs minor" shall refer to a minor whose mental and/or physical condition requires special services and treatment by staff. A minor may have special needs due to drug or alcohol abuse, serious emotional disturbance, mental illness or retardation, or a physical condition or chronic illness that requires special services or treatment. A minor who has suffered serious neglect or abuse may be considered a minor with special needs if the minor requires special services or treatment as a result of the neglect or abuse. The INS shall assess minors to determine if they have special needs and, if so, shall place such minors, whenever possible, in licensed programs in which the INS places children without special needs, but which provide services and treatment for such special needs.

8. The term "medium security facility" shall refer to a facility that is operated by a program, agency or organization licensed by an appropriate State agency and that meets those standards set forth in Exhibit 1 attached hereto. A medium security facility is designed for minors who require close supervision but do not need placement in juvenile correctional facilities. It provides 24-hour awake supervision, custody, care, and treatment. It maintains stricter security measures, such as intensive staff supervision, than a facility operated by a licensed program in order to control problem behavior and to prevent escape. Such a facility may have a secure perimeter but shall not be equipped internally with

major restraining construction or procedures typically associated with correctional facilities.

II SCOPE OF SETTLEMENT, EFFECTIVE DATE, AND PUBLICATION

9. This Agreement sets out nationwide policy for the detention, release, and treatment of minors in the custody of the INS and shall supersede all previous INS policies that are inconsistent with the terms of this Agreement. This Agreement shall become effective upon final court approval, except that those terms of this Agreement regarding placement pursuant to Paragraph 19 shall not become effective until all contracts under the Program Announcement referenced in Paragraph 20 below are negotiated and implemented. The INS shall make its best efforts to execute these contracts within 120 days after the court's final approval of this Agreement. However, the INS will make reasonable efforts to comply with Paragraph 19 prior to full implementation of all such contracts. Once all contracts under the Program Announcement referenced in Paragraph 20 have been implemented, this Agreement shall supersede the agreement entitled Memorandum of Understanding Re Compromise of Class Action: Conditions of Detention (hereinafter "MOU"), entered into by and between the Plaintiffs and Defendants and filed with the United States District Court for the Central District of California on November 30, 1987, and the MOU shall thereafter be null and void. However, Plaintiffs shall not institute any legal action for enforcement of the MOU for a six (6) month period commencing with the final district court approval of this Agreement, except that Plaintiffs may institute enforcement proceedings if the Defendants have engaged in serious violations of the MOU that have caused irreparable harm to a class member for which injunctive relief would be appropriate. Within 120 days of the final district court approval of this Agreement, the INS shall initiate action to publish the relevant and substantive terms of this Agreement as a Service regulation. The final regulations shall not be inconsistent with the terms of this Agreement. Within 30 days of final court approval of this

Agreement, the INS shall distribute to all INS field offices and sub-offices instructions regarding the processing, treatment, and placement of juveniles. Those instructions shall include, but may not be limited to, the provisions summarizing the terms of this Agreement, attached hereto as Exhibit 2.

III CLASS DEFINITION

10. The certified class in this action shall be defined as follows: "All minors who are detained in the legal custody of the INS."

IV STATEMENTS OF GENERAL APPLICABILITY

11. The INS treats, and shall continue to treat, all minors in its custody with dignity, respect and special concern for their particular vulnerability as minors. The INS shall place each detained minor in the least restrictive setting appropriate to the minor's age and special needs, provided that such setting is consistent with its interests to ensure the minor's timely appearance before the INS and the immigration courts and to protect the minor's well-being and that of others. Nothing herein shall require the INS to release a minor to any person or agency whom the INS has reason to believe may harm or neglect the minor or fail to present him or her before the INS or the immigration courts when requested to do so.

V PROCEDURES AND TEMPORARY PLACEMENT FOLLOWING ARREST

12.A. Whenever the INS takes a minor into custody, it shall expeditiously process the minor and shall provide the minor with a notice of rights, including the right to a bond redetermination hearing if applicable. Following arrest, the INS shall hold minors in facilities that are safe and sanitary and that are consistent with the INS's concern for the particular vulnerability of minors. Facilities will provide access to toilets and sinks, drinking water and food as appropriate, medical assistance if the minor is in need of emergency services, adequate temperature control and ventilation, adequate supervision to

protect minors from others, and contact with family members who were arrested with the minor. The INS will segregate unaccompanied minors from unrelated adults. Where such segregation is not immediately possible, an unaccompanied minor will not be detained with an unrelated adult for more than 24 hours. If there is no one to whom the INS may release the minor pursuant to Paragraph 14, and no appropriate licensed program is immediately available for placement pursuant to Paragraph 19, the minor may be placed in an INS detention facility, or other INS-contracted facility, having separate accommodations for minors, or a State or county juvenile detention facility. However, minors shall be separated from delinquent offenders. Every effort must be taken to ensure that the safety and well-being of the minors detained in these facilities are satisfactorily provided for by the staff. The INS will transfer a minor from a placement under this paragraph to a placement under Paragraph 19, (i) within three (3) days, if the minor was apprehended in an INS district in which a licensed program is located and has space available; or (ii) within five (5) days in all other cases; except:

1. as otherwise provided under Paragraph 13 or Paragraph 21;
2. as otherwise required by any court decree or court-approved settlement;
3. in the event of an emergency or influx of minors into the United States, in which case the INS shall place all minors pursuant to Paragraph 19 as expeditiously as possible; or
4. where individuals must be transported from remote areas for processing or speak unusual languages such that the INS must locate interpreters in order to complete processing, in which case the INS shall place all such minors pursuant to Paragraph 19 within five (5) business days.

B. For purposes of this paragraph, the term "emergency" shall be defined as any act or event that prevents the placement of minors pursuant to Paragraph 19 within the time frame provided. Such

emergencies include natural disasters (e.g., earthquakes, hurricanes, etc.), facility fires, civil disturbances, and medical emergencies (e.g., a chicken pox epidemic among a group of minors). The term "influx of minors into the United States" shall be defined as those circumstances where the INS has, at any given time, more than 130 minors eligible for placement in a licensed program under Paragraph 19, including those who have been so placed or are awaiting such placement.

C. In preparation for an "emergency" or "influx," as described in Subparagraph B, the INS shall have a written plan that describes the reasonable efforts that it will take to place all minors as expeditiously as possible. This plan shall include the identification of 80 beds that are potentially available for INS placements and that are licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children. The plan, without identification of the additional beds available, is attached as Exhibit 3. The INS shall not be obligated to fund these additional beds on an ongoing basis. The INS shall update this listing of additional beds on a quarterly basis and provide Plaintiffs' counsel with a copy of this listing.

13. If a reasonable person would conclude that an alien detained by the INS is an adult despite his claims to be a minor, the INS shall treat the person as an adult for all purposes, including confinement and release on bond or recognizance. The INS may require the alien to submit to a medical or dental examination conducted by a medical professional or to submit to other appropriate procedures to verify his or her age. If the INS subsequently determines that such an individual is a minor, he or she will be treated as a minor in accordance with this Agreement for all purposes.

VI GENERAL POLICY FAVORING RELEASE

14. Where the INS determines that the detention of the minor is not required either to secure his or her timely appearance before the INS or the immigration court, or to ensure the minor's safety or that

of others, the INS shall release a minor from its custody without unnecessary delay, in the following order of preference, to:

A. a parent;

B. a legal guardian;

C. an adult relative (brother, sister, aunt, uncle, or grandparent);

D. an adult individual or entity designated by the parent or legal guardian as capable and willing to care for the minor's well-being in (i) a declaration signed under penalty of perjury before an immigration or consular officer or (ii) such other document(s) that establish(es) to the satisfaction of the INS, in its discretion, the affiant's paternity or guardianship;

E. a licensed program willing to accept legal custody; or

F. an adult individual or entity seeking custody, in the discretion of the INS, when it appears that there is no other likely alternative to long term detention and family reunification does not appear to be a reasonable possibility.

15. Before a minor is released from INS custody pursuant to Paragraph 14 above, the custodian must execute an Affidavit of Support (Form I-134) and an agreement to:

A. provide for the minor's physical, mental, and financial well-being;

B. ensure the minor's presence at all future proceedings before the INS and the immigration court;

C. notify the INS of any change of address within five (5) days following a move;

D. in the case of custodians other than parents or legal guardians, not transfer custody of the minor to another party without the prior written permission of the District Director;

E. notify the INS at least five days prior to the custodian's departing the United States of such departure, whether the departure is voluntary or pursuant to a grant of voluntary departure or order of deportation; and

F. if dependency proceedings involving the minor are initiated, notify the INS of the initiation of such proceedings and the dependency court of any immigration proceedings pending against the minor.

In the event of an emergency, a custodian may transfer temporary physical custody of a minor prior to securing permission from the INS but shall notify the INS of the transfer as soon as is practicable thereafter, but in all cases within 72 hours. For purposes of this paragraph, examples of an "emergency" shall include the serious illness of the custodian, destruction of the home, etc. In all cases where the custodian, in writing, seeks written permission for a transfer, the District Director shall promptly respond to the request.

16. The INS may terminate the custody arrangements and assume legal custody of any minor whose custodian fails to comply with the agreement required under Paragraph 15. The INS, however, shall not terminate the custody arrangements for minor violations of that part of the custodial agreement outlined at Subparagraph 15.C above.

17. A positive suitability assessment may be required prior to release to any individual or program pursuant to Paragraph 14. A suitability assessment may include such components as an investigation of the living conditions in which the minor would be placed and the standard of care he would receive, verification of identity and employment of the individuals offering support, interviews of members of the household, and a home visit. Any such assessment should also take into consideration the wishes and concerns of the minor.

18. Upon taking a minor into custody, the INS, or the licensed program in which the minor is placed, shall make and record the prompt and continuous efforts on its part toward family reunification and the release of the minor pursuant to Paragraph 14 above. Such efforts at family reunification shall continue so long as the minor is in INS custody.

VII INS CUSTODY

19. In any case in which the INS does not release a minor pursuant to Paragraph 14, the minor shall remain in INS legal custody. Except as provided in Paragraphs 12 or 21, such minor shall be placed temporarily in a licensed program until such time as release can be effected in accordance with Paragraph 14 above or until the minor's immigration proceedings are concluded, whichever occurs earlier. All minors placed in such a licensed program remain in the legal custody of the INS and may only be transferred or released under the authority of the INS; provided, however, that in the event of an emergency a licensed program may transfer temporary physical custody of a minor prior to securing permission from the INS but shall notify the INS of the transfer as soon as is practicable thereafter, but in all cases within 8 hours.

20. Within 60 days of final court approval of this Agreement, the INS shall authorize the United States Department of Justice Community Relations Service to publish in the Commerce Business Daily and/or the Federal Register a Program Announcement to solicit proposals for the care of 100 minors in licensed programs.

21. A minor may be held in or transferred to a suitable State or county juvenile detention facility or a secure INS detention facility, or INS-contracted facility, having separate accommodations for minors whenever the District Director or Chief Patrol Agent determines that the minor:

A. has been charged with, is chargeable, or has been convicted of a crime, or is the subject

of delinquency proceedings, has been adjudicated delinquent, or is chargeable with a delinquent act; provided, however, that this provision shall not apply to any minor whose offense(s) fall(s) within either of the following categories:

i. Isolated offenses that (1) were not within a pattern or practice of criminal activity and (2) did not involve violence against a person or the use or carrying of a weapon (Examples: breaking and entering, vandalism, DUI, etc. This list is not exhaustive.);

ii. Petty offenses, which are not considered grounds for stricter means of detention in any case (Examples: shoplifting, joy riding, disturbing the peace, etc. This list is not exhaustive.);

As used in this paragraph, "chargeable" means that the INS has probable cause to believe that the individual has committed a specified offense;

B. has committed, or has made credible threats to commit, a violent or malicious act (whether directed at himself or others) while in INS legal custody or while in the presence of an INS officer;

C. has engaged, while in a licensed program, in conduct that has proven to be unacceptably disruptive of the normal functioning of the licensed program in which he or she has been placed and removal is necessary to ensure the welfare of the minor or others, as determined by the staff of the licensed program (Examples: drug or alcohol abuse, stealing, fighting, intimidation of others, etc. This list is not exhaustive.);

D. is an escape-risk; or

E. must be held in a secure facility for his or her own safety, such as when the INS has

reason to believe that a smuggler would abduct or coerce a particular minor to secure payment of smuggling fees.

22. The term "escape-risk" means that there is a serious risk that the minor will attempt to escape from custody. Factors to consider when determining whether a minor is an escape-risk or not include, but are not limited to, whether:

A. the minor is currently under a final order of deportation or exclusion:

B. the minor's immigration history includes: a prior breach of a bond; a failure to appear before the INS or the immigration court; evidence that the minor is indebted to organized smugglers for his transport; or a voluntary departure or a previous removal from the United States pursuant to a final order of deportation or exclusion;

C. the minor has previously absconded or attempted to abscond from INS custody.

23. The INS will not place a minor in a secure facility pursuant to Paragraph 21 if there are less restrictive alternatives that are available and appropriate in the circumstances, such as transfer to (a) a medium security facility which would provide intensive staff supervision and counseling services or (b) another licensed program. All determinations to place a minor in a secure facility will be reviewed and approved by the regional juvenile coordinator.

24.A. A minor in deportation proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case, unless the minor indicates on the Notice of Custody Determination form that he or she refuses such a hearing.

B. Any minor who disagrees with the INS's determination to place that minor in a particular type of facility, or who asserts that the licensed program in which he or she has been placed does not comply with the standards set forth in Exhibit 1 attached hereto, may seek judicial review in any

United States District Court with jurisdiction and venue over the matter to challenge that placement determination or to allege noncompliance with the standards set forth in Exhibit 1. In such an action, the United States District Court shall be limited to entering an order solely affecting the individual claims of the minor bringing the action.

C. In order to permit judicial review of Defendants' placement decisions as provided in this Agreement, Defendants shall provide minors not placed in licensed programs with a notice of the reasons for housing the minor in a detention or medium security facility. With respect to placement decisions reviewed under this paragraph, the standard of review for the INS's exercise of its discretion shall be the abuse of discretion standard of review. With respect to all other matters for which this paragraph provides judicial review, the standard of review shall be *de novo* review.

D. The INS shall promptly provide each minor not released with (a) INS Form I-770, (b) an explanation of the right of judicial review as set out in Exhibit 6, and (c) the list of free legal services available in the district pursuant to INS regulations (unless previously given to the minor).

E. Exhausting the procedures established in Paragraph 37 of this Agreement shall not be a precondition to the bringing of an action under this paragraph in any United District Court. Prior to initiating any such action, however, the minor and/or the minors' attorney shall confer telephonically or in person with the United States Attorney's office in the judicial district where the action is to be filed, in an effort to informally resolve the minor's complaints without the need of federal court intervention.

VIII TRANSPORTATION OF MINORS

25. Unaccompanied minors arrested or taken into custody by the INS should not be transported by the INS in vehicles with detained adults except:

A. when being transported from the place of arrest or apprehension to an INS office, or

B. where separate transportation would be otherwise impractical.

When transported together pursuant to Clause B, minors shall be separated from adults. The INS shall take necessary precautions for the protection of the well-being of such minors when transported with adults.

26. The INS shall assist without undue delay in making transportation arrangements to the INS office nearest the location of the person or facility to whom a minor is to be released pursuant to Paragraph 14. The INS may, in its discretion, provide transportation to minors.

IX TRANSFER OF MINORS

27. Whenever a minor is transferred from one placement to another, the minor shall be transferred with all of his or her possessions and legal papers; provided, however, that if the minor's possessions exceed the amount permitted normally by the carrier in use, the possessions will be shipped to the minor in a timely manner. No minor who is represented by counsel shall be transferred without advance notice to such counsel, except in unusual and compelling circumstances such as where the safety of the minor or others is threatened or the minor has been determined to be an escape-risk, or where counsel has waived such notice, in which cases notice shall be provided to counsel within 24 hours following transfer.

X MONITORING AND REPORTS

28A. An INS Juvenile Coordinator in the Office of the Assistant Commissioner for Detention and Deportation shall monitor compliance with the terms of this Agreement and shall maintain an up-to-date record of all minors who are placed in proceedings and remain in INS custody for longer than 72 hours. Statistical information on such minors shall be collected weekly from all INS district offices and Border Patrol stations. Statistical information will include at least the following: (1)

biographical information such as each minor's name, date of birth, and country of birth, (2) date placed in INS custody, (3) each date placed, removed or released, (4) to whom and where placed, transferred, removed or released, (5) immigration status, and (6) hearing dates. The INS, through the Juvenile Coordinator, shall also collect information regarding the reasons for every placement of a minor in a detention facility or medium security facility.

B. Should Plaintiffs' counsel have reasonable cause to believe that a minor in INS legal custody should have been released pursuant to Paragraph 14, Plaintiffs' counsel may contact the Juvenile Coordinator to request that the Coordinator investigate the case and inform Plaintiffs' counsel of the reasons why the minor has not been released.

29. On a semi-annual basis, until two years after the court determines, pursuant to Paragraph 31, that the INS has achieved substantial compliance with the terms of this Agreement, the INS shall provide to Plaintiffs' counsel the information collected pursuant to Paragraph 28, as permitted by law, and each INS policy or instruction issued to INS employees regarding the implementation of this Agreement. In addition, Plaintiffs' counsel shall have the opportunity to submit questions, on a semi-annual basis, to the Juvenile Coordinator in the Office of the Assistant Commissioner for Detention and Deportation with regard to the implementation of this Agreement and the information provided to Plaintiffs' counsel during the preceding six-month period pursuant to Paragraph 28. Plaintiffs' counsel shall present such questions either orally or in writing, at the option of the Juvenile Coordinator. The Juvenile Coordinator shall furnish responses, either orally or in writing at the option of Plaintiffs' counsel, within 30 days of receipt.

30. On an annual basis, commencing one year after final court approval of this Agreement, the INS Juvenile Coordinator shall review, assess, and report to the court regarding compliance with the

terms of this Agreement. The Coordinator shall file these reports with the court and provide copies to the parties, including the final report referenced in Paragraph 35, so that they can submit comments on the report to the court. In each report, the Coordinator shall state to the court whether or not the INS is in substantial compliance with the terms of this Agreement, and, if the INS is not in substantial compliance, explain the reasons for the lack of compliance. The Coordinator shall continue to report on an annual basis until three years after the court determines that the INS has achieved substantial compliance with the terms of this Agreement.

31. One year after the court's approval of this Agreement, the Defendants may ask the court to determine whether the INS has achieved substantial compliance with the terms of this Agreement.

XI ATTORNEY-CLIENT VISITS

32.A. Plaintiffs' counsel are entitled to attorney-client visits with class members even though they may not have the names of class members who are housed at a particular location. All visits shall occur in accordance with generally applicable policies and procedures relating to attorney-client visits at the facility in question. Upon Plaintiffs' counsel's arrival at a facility for attorney-client visits, the facility staff shall provide Plaintiffs' counsel with a list of names and alien registration numbers for the minors housed at that facility. In all instances, in order to memorialize any visit to a minor by Plaintiffs' counsel, Plaintiffs' counsel must file a notice of appearance with the INS prior to any attorney-client meeting. Plaintiffs' counsel may limit any such notice of appearance to representation of the minor in connection with this Agreement. Plaintiffs' counsel must submit a copy of the notice of appearance by hand or by mail to the local INS juvenile coordinator and a copy by hand to the staff of the facility.

B. Every six months, Plaintiffs' counsel shall provide the INS with a list of those attorneys who

may make such attorney-client visits, as Plaintiffs' counsel, to minors during the following six month period. Attorney-client visits may also be conducted by any staff attorney employed by the Center for Human Rights & Constitutional Law in Los Angeles, California or the National Center for Youth Law in San Francisco, California, provided that such attorney presents credentials establishing his or her employment prior to any visit.

C. Agreements for the placement of minors in non-INS facilities shall permit attorney-client visits, including by class counsel in this case.

D. Nothing in Paragraph 32 shall affect a minor's right to refuse to meet with Plaintiffs' counsel. Further, the minor's parent or legal guardian may deny Plaintiffs' counsel permission to meet with the minor.

XII FACILITY VISITS

33. In addition to the attorney-client visits permitted pursuant to Paragraph 32, Plaintiffs' counsel may request access to any licensed program's facility in which a minor has been placed pursuant to Paragraph 19 or to any medium security facility or detention facility in which a minor has been placed pursuant to Paragraphs 21 or 23. Plaintiffs' counsel shall submit a request to visit a facility under this paragraph to the INS district juvenile coordinator who will provide reasonable assistance to Plaintiffs' counsel by conveying the request to the facility's staff and coordinating the visit. The rules and procedures to be followed in connection with any visit approved by a facility under this paragraph are set forth in Exhibit 4 attached, except as may be otherwise agreed by Plaintiffs' counsel and the facility's staff. In all visits to any facility pursuant to this Agreement, Plaintiffs' counsel and their associated experts shall treat minors and staff with eourtesy and dignity and shall not disrupt the normal functioning of the facility.

XIII TRAINING

34. Within 120 days of final court approval of this Agreement, the INS shall provide appropriate guidance and training for designated INS employees regarding the terms of this Agreement. The INS shall develop written and/or audio or video materials for such training. Copies of such written and/or audio or video training materials shall be made available to Plaintiffs' counsel when such training materials are sent to the field, or to the extent practicable, prior to that time.

XIV DISMISSAL

35. After the court has determined that the INS is in substantial compliance with this Agreement and the Coordinator has filed a final report, the court, without further notice, shall dismiss this action. Until such dismissal, the court shall retain jurisdiction over this action.

XV RESERVATION OF RIGHTS

36. Nothing in this Agreement shall limit the rights, if any, of individual class members to preserve issues for judicial review in the appeal of an individual case or for class members to exercise any independent rights they may otherwise have.

XVI NOTICE AND DISPUTE RESOLUTION

37. This paragraph provides for the enforcement, in this District Court, of the provisions of this Agreement except for claims brought under Paragraph 24. The parties shall meet telephonically or in person to discuss a complete or partial repudiation of this Agreement or any alleged non-compliance with the terms of the Agreement, prior to bringing any individual or class action to enforce this Agreement. Notice of a claim that a party has violated the terms of this Agreement shall be served on plaintiffs addressed to:

/ / /

CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW
Carlos Holguín
Peter A. Schey
256 South Occidental Boulevard
Los Angeles, CA 90057

NATIONAL CENTER FOR YOUTH LAW
Alice Bussiere
James Morales
114 Sansome Street, Suite 905
San Francisco, CA 94104

and on Defendants addressed to:

Michael Johnson
Assistant United States Attorney
300 N. Los Angeles St., Rm. 7516
Los Angeles, CA 90012

Allen Hausman
Office of Immigration Litigation
Civil Division
U.S. Department of Justice
P.O. Box 878, Ben Franklin Station
Washington, DC 20044

XVII PUBLICITY

38. Plaintiffs and Defendants shall hold a joint press conference to announce this Agreement. The INS shall send copies of this Agreement to social service and voluntary agencies agreed upon by the parties, as set forth in Exhibit 5 attached. The parties shall pursue such other public dissemination of information regarding this Agreement as the parties shall agree.

XVIII ATTORNEYS' FEES AND COSTS

39. Within 60 days of final court approval of this Agreement, Defendants shall pay to Plaintiffs the total sum of $374,110.09, in full settlement of all attorneys' fees and costs in this case.

/ / /

XIX TERMINATION

40. All terms of this Agreement shall terminate the earlier of five years after the date of final court approval of this Agreement or three years after the court determines that the INS is in substantial compliance with this Agreement, except that the INS shall continue to house the general population of minors in INS custody in facilities that are licensed for the care of dependent minors.

XX REPRESENTATIONS AND WARRANTY

41. Counsel for the respective parties, on behalf of themselves and their clients, represent that they know of nothing in this Agreement that exceeds the legal authority of the parties or is in violation of any law. Defendants' counsel represent and warrant that they are fully authorized and empowered to enter into this Agreement on behalf of the Attorney General, the United States Department of Justice, and the Immigration and Naturalization Service, and acknowledge that Plaintiffs enter into this Agreement in reliance on such representation. Plaintiffs' counsel represent and warrant that they are fully authorized and empowered to enter into this Agreement on behalf of the Plaintiffs, and acknowledge that Defendants enter into this Agreement in reliance on such representation. The undersigned, by their signatures on behalf of the Plaintiffs and Defendants, warrant that upon execution of this Agreement in their representative capacities, their principals, agents, and successors of such principals and agents shall be fully and unequivocally bound hereunder to the full extent authorized by law.

For Defendants: Signed: Doris Meissner Title: Commissioner, INS

Dated: 9/16/96

For Plaintiffs: Signed: per next page Title: _____

Dated: _____

The foregoing stipulated settlement is approved as to form and content:

CENTER FOR HUMAN RIGHTS AND CONSTITUTIONAL LAW
Carlos Holguin
Peter Schey

NATIONAL CENTER FOR YOUTH LAW
Alice Bussiere
James Morales

ACLU FOUNDATION OF SOUTHERN CALIFORNIA
Mark Rosenbaum
Sylvia Argueta

STEICH LANG
Susan G. Boswell
Jeffery Willis

Date: 1/13/97 By _____

Date: 11/13/96 By _____

Message

From: Gregg, Bobbie (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=[redacted]
Sent: 5/28/2015 6:29:24 PM
To: Greenberg, Mark (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Mark.Greenberg.ACF]; McKearn, Matthew (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Matthew.McKearn.ACF]; Hild, Jeff (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=[redacted]; Cancian, Maria (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=[redacted]; Carey, Bob (ACF) [/O=HHS EES/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=[redacted]; Wolff, Kate (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Kate.Wolff.OS]; Tota, Kenneth (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=kenneth.tota.acf]
CC: Barlow, Amanda (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=amanda.barlow.acf]; Jones, Robin (ACF) [/O=HHS EES/OU=First Administrative Group/cn=Recipients/cn=Robin.Jones.ACF]
Subject: RE: Draft note to the Deputy Secretary on Reprogramming

I have asked the data team to provide an estimate based on FY14 experience of the number of young children that would be included in the pilot category.

You are correct about why we chose the younger children and the risk associated with the older children not being included.

In FY15 to date, we have placed 751 children with non-relatives and provided PRS to 1,720 children total (which likely includes some children placed with non-relative sponsors). For the pilot, if we assume 275 additional children of all ages will be placed with non-relatives through the end of FY15, we have the funding in FY15 to pilot the full number, but may not be able to sustain that level into FY16. (In FY14 we placed 4,952 children with non-relative sponsors but provided PRS to fewer than 4,000 children/sponsors of the total approximately 58,000 children placed.)

We are also considering another category of children to pilot – children/sponsors who call the Hotline for assistance with safety-related concerns -- but are conferring with OGC to make sure that we are not exposing the Department to increased legal risk by offering services to children/sponsors for the first time after the children are no longer in HHS custody.

I will prepare a one-pager on the PRS pilot options for discussion next week, which will include:

- Home studies and PRS for children age 12 and younger with a prospective non-relative sponsor;
- PRS for children 13 and older with a non-relative sponsor; and
- Perhaps a subset of children/sponsor Hotline callers with safety-related concerns (yet to be defined).

Bobbie Gregg
Deputy Director, Children's Services
Office of Refugee Resettlement
[redacted]

From: Greenberg, Mark (ACF)
Sent: Thursday, May 28, 2015 5:43 PM

To: Gregg, Bobbie (ACF); McKearn, Matthew (ACF); Hild, Jeff (ACF); Cancian, Maria (ACF); Carey, Bob (ACF); Wolff, Kate (ACF); Tota, Kenneth (ACF)
Cc: Barlow, Amanda (ACF); Jones, Robin (ACF)
Subject: RE: Draft note to the Deputy Secretary on Reprogramming

Thanks, Bobbie. If we expand home studies and PRS for children under 13 going to non-relatives, how many children will that involve (assuming steady state at FY 15 arrival levels)? And, what's the number of older children going to non-relatives that wouldn't be included?

I assume the reason for under 13 is that it's a smaller number for a pilot and that we'll have the greatest concern about young children less able to communicate out about their need for help. Right? But, this is probably less likely to pick up the debt labor group. Do you think it would just go too far to extend to all children going to non-relatives?

Mark Greenberg
Acting Assistant Secretary, Administration for Children and Families
US Department of Health and Human Services
901 D St., SW, 6th Floor
Washington, DC 20447
[redacted]
www.acf.hhs.gov

From: Gregg, Bobbie (ACF)
Sent: Thursday, May 28, 2015 5:24 PM
To: McKearn, Matthew (ACF); Greenberg, Mark (ACF); Hild, Jeff (ACF); Cancian, Maria (ACF); Carey, Bob (ACF); Wolff, Kate (ACF); Tota, Kenneth (ACF)
Cc: Barlow, Amanda (ACF); Jones, Robin (ACF)
Subject: RE: Draft note to the Deputy Secretary on Reprogramming

Here's a paragraph that can be added on post-release services in the placeholder:

> HHS is required to provide post-release services (PRS) to all children for whom a home study was required and may provide PRS to children "with mental health or other needs who could benefit from ongoing assistance from a social welfare agency." HHS provided PRS to approximately 4,000 children released to sponsors in FY14. HHS is identifying categories of unaccompanied children "with other needs" to whom PRS should also be offered. On a pilot basis, starting July 1, HHS will begin performing home studies for and offering PRS when children under the age of 13 are being released to a non-relative sponsor. In addition, effective May 15, HHS has expanded the Parent Hotline to accept calls from sponsors and unaccompanied children seeking assistance with safety-related concerns. The Hotline reports child abuse and neglect to the appropriate state or local Child Protective Service and provides referrals to local providers when social services are needed.

Bobbie Gregg
Deputy Director, Children's Services
Office of Refugee Resettlement
[redacted]

From: McKearn, Matthew (ACF)
Sent: Thursday, May 28, 2015 5:02 PM
To: Greenberg, Mark (ACF); Hild, Jeff (ACF); Cancian, Maria (ACF); Gregg, Bobbie (ACF); Carey, Bob (ACF); Wolff, Kate (ACF); Tota, Kenneth (ACF)
Cc: Barlow, Amanda (ACF); Jones, Robin (ACF)
Subject: FW: Draft note to the Deputy Secretary on Reprogramming

Mark,

Per our conversation below is a draft note to the Deputy Secretary on reprogramming. Once you have had a chance to comment I would like to share with ASFR and get their feedback. We have one placeholder in the current draft – a description of the planned pilot for post-placement services that Bobbie Gregg will have tomorrow. I think that we can share the draft with that placeholder with ASFR because the proposal does not affect the level of reprogrammed funds.

Please let me know if you would like to discuss.

Thanks.

Matthew

FY 2015 Reprogramming -- Background

ACF currently has a request under review by ASFR to reprogram $87 million in FY 2015 funding within Office of Refugee Resettlement accounts from unaccompanied children to refugee assistance programs. By law HHS must formally notify the Appropriations Committees before reprogramming the funds.

[redacted]

ACF is in position to reprogram funds because spending on unaccompanied children in FY 2014 was approximately $200 million below the appropriated level. Because the appropriations act makes ORR funding available for three years, the unspent funds remain available to support FY 2015 activities. The Appropriations Committees have been notified about the availability of unspent FY 2014 funds.

[redacted]

The existing FY 2015 funding level of $27 million for post-placement services provides flexibility to support the proposed initiative. In FY 2014 ACF spent approximately $17 million to provide post-placement services to a subset of the approximately 58,000 children referred during the year.

Potential Reaction to the Reprogramming Request

Appropriations Committee staff are deep into the FY 2016 process and are anticipating that ACF will be carrying approximately $200 million in ORR resources from 2014 into 2015 and they also anticipate that FY 2015 spending will be lower than the appropriated level because of the reduced number of arrivals – approximately half the level experienced during the first eight months of FY 2015 compared to the prior year. Staff indicated that they fully support providing ACF with the resources needed to operate ORR programs but we should assume that the FY 2016 level would be set below the FY 2015 enacted level, but we do not know by how much.

Matthew McKearn
Director
Office of Legislative Affairs and Budget
Administration for Children and Families
370 L'Enfant Promenade SW
Washington, DC 20015

From: Brandon, Cate (HHS/ASL) [redacted]
Sent: Tuesday, January 26, 2016 12:47 PM
To: Tucker, Rachael (HSGAC); Barstow, Kevin (HHS/ASL)
Cc: Owen, Matt (HSGAC); Beras, Mel (HSGAC)
Subject: RE: outstanding items

Hi Rachael,

Here are the updated numbers you requested:

	Releases to Sponsors By Category FY 2015		
Sponsor Category	**United States**	**Missouri**	**Ohio**
1	15,058	102	202
2	9,857	53	209
3	2,605	14	65
Total	27,520	107	224

	Releases to Sponsors By Category Q1 FY 2016		
Sponsor Category	**United States**	**Missouri**	**Ohio**
1	8,707	41	78
2	4,700	23	85
3	1,162	8	17
Total	14,569	72	180

Thanks,
Cate

DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

JAN 0 5 2016

The Honorable Rob Portman
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Portman:

Thank you for your most recent letter concerning the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services' (HHS) Administration for Children and Families (ACF). I am responding to you on behalf of Secretary Burwell. I appreciate your interest in the Unaccompanied Children's Program. HHS recognizes and appreciates the importance of Congressional oversight. As you know, we have been working collaboratively with you and your staff over the last several months to provide you with information and answer your questions. In addition to providing a written response to your July 13, 2015, letter, we have made four separate productions of documents responsive to your letters and will continue to make additional productions of responsive materials on a rolling basis. We have also briefed your staff on related topics in five separate briefings and have a sixth briefing scheduled for later this month.

As part of our continued, rolling production, enclosed with this letter are documents responsive to Requests 2, 4(b), and 4(d) in your October 2, 2015, letter. HHS has strong policies in place to ensure the privacy and safety of unaccompanied children by maintaining the confidentiality of their personal information. These policies are based on a number of Congressional directives to protect this vulnerable population, including a 2005 House Committee Report urging HHS "to maintain the privacy and confidentiality of all information gathered in the course of the care, custody and placement of unaccompanied alien children."[1] In addition, the Flores Agreement recognizes the importance of safeguarding records about the children and preserving the confidentiality of their personal information. Even with limited redactions, the documents we are providing today contain sensitive information, and we understand that the Subcommittee will refrain from publishing or otherwise making public the enclosed materials and will limit review of these materials, subject to the terms of the agreement reached with your staff.

Additionally, attached please find information in response to your December 8, 2015, letter. As my staff has communicated to your staff, we will provide you with additional documents

[1] House Report 109-143.

responsive to your requests on a rolling basis. HHS recognizes and appreciates the importance of Congressional oversight and is committed to continuing to work with you regarding your inquiry into this matter. I hope you find this information helpful. Please let my staff know if we can be of further assistance.

Sincerely,

Jim R. Esquea

Jim R. Esquea
Assistant Secretary for Legislation

Enclosure(s)

cc: The Honorable Claire McCaskill
Ranking Member

Attachment

HHS Programs and Policies to Protect Unaccompanied Children From Trafficking and Other Exploitive Activities

The totality of ORR's policies and procedures around the care and placement of unaccompanied children are designed to protect children from harm, including trafficking, and are rooted in long-standing legal instruments. First, the settlement agreement in *Flores v. Reno*, No. 85-4544-RJK (Px) (C.D. Cal. Jan 17, 1997), among other things, required the Immigration and Naturalization Service (INS) to protect unaccompanied children's safety and well-being while in government custody and authorized INS to not release children to anyone whom the government has reason to believe may harm the minor. When the Homeland Security Act of 2002 transferred responsibility to ORR for coordinating and implementing the care and placement of unaccompanied children, these provisions of the settlement agreement continued to apply to ORR. The Homeland Security Act also specifically obligates ORR to protect unaccompanied children "from smugglers, traffickers, or others who might seek to victimize or otherwise engage in criminal, harmful, or exploitive activity" when making placement decisions.[2] The William Wilberforce Trafficking Victims Protection Act (TVPRA) of 2008 provided additional authorities and obligations, which were generally consistent with ORR's existing obligation to protect children in their care from harm.

As articulated in ORR's current Policy Guide § 2.1, ORR's policies regarding the safe and timely release of unaccompanied children from its care are designed to assist ORR personnel and grantees in evaluating a potential sponsor's ability to provide for the child's physical and mental well-being and stem from the legal requirement to protect children from "smugglers, traffickers, or others who might seek to victimize or otherwise engage the child in criminal, harmful or exploitative activity." ORR directs its care providers to provide other services related to the identification of potential trafficking victims and protections and added services for trafficking victims or those at risk for trafficking. In many cases, these services play an important role in evaluating potential sponsors and making release decisions.

While the totality of ORR's policies and procedures are intended to protect children from harm, consistent with ORR's responsibilities under 8 U.S.C. 1232(c)(1), below are lists of current policy provisions that particularly address trafficking. Although these policies have evolved over time, as you can see in examining the prior version of the Policies and Procedures Manual from 2006, a version of many of these policies has existed at ORR for many years and predates the passage of the TVPRA.

The following policies from the current Policy Guide are specifically designed to identify potential trafficking victims and protect those children while in ORR's custody:

- 3.2.1 Admissions for Unaccompanied Children ("If the unaccompanied child's responses to questions during the [Initial Intakes] Assessment, initial medical examination, or other assessments indicate the possibility that the child may have been a victim of human trafficking, the care provider will notify the ACF Office of Trafficking in Persons within 24 hours.")

[2] *See, e.g.* 6 U.S.C. 279(b)(2)(A)(ii).

- 3.3.3 Screening for Child Trafficking and Services for Victims
- 3.3.4 Safety Planning ("Care providers must create in care safety plans for all unaccompanied children who have special security concerns, including those who are victims of trafficking, at high risk for trafficking, or victims of other crimes.")
- 3.3.10 Telephone Calls, Visitation, and Mail ("Care providers must create a list of approved and prohibited persons that an unaccompanied child may contact and may only prohibit calls if they can document valid reasons for concern (for example, suspected smuggler or trafficker or past trauma with a particular individual).")

With regard to safe and timely release to sponsors, the following policies are specifically designed to address trafficking or similar exploitation risks, among other risks:

- 2.2.2 Contacting Potential Sponsors ("The child's care provider is responsible for implementing safe screening methods when contacting and communicating with potential sponsors. These methods are to ensure that a potential sponsor does not pose a risk to the unaccompanied child, to other children in the care provider facility or to care provider staff. These safe screening methods including...screening for exploitation, abuse, trafficking, or other safety concerns.")
- 2.2.5 Legal Orientation Program for Custodians ("All potential sponsors of children and youth under the care of ORR should attend a presentation provided by the Legal Orientation Program for Custodians (LOPC). The purpose of this program is to inform potential sponsors of their responsibilities in ensuring the child's appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking, as provided under the Trafficking Victims Protection Reauthorization Act of 2008.")
- 2.4.1 Assessment Criteria ("ORR considers the following factors when evaluating family members and other potential sponsors::...the unaccompanied child's current functioning and strengths in relation to any risk factors or special concerns, such as children or youth who are victims of human trafficking....")
- 2.4.2 Mandatory Home Study Requirement ("The TVPRA requires home studies under these circumstances: The child is a victim of a severe form of trafficking in persons;...the child's sponsor clearly presents a risk of abuse, maltreatment, exploitation or trafficking, to the child based on all available objective evidence. ORR also requires a mandatory home study before releasing any child to a non-relative sponsor who is seeking to sponsor multiple children, or has previously sponsored a child and is seeking to sponsor additional children.")
- 2.5 ORR Policies on Requesting Background Checks of Sponsors ("In order to ensure the safety of an unaccompanied child and consistent with the statutory requirements under the TVPRA of 2008, ORR requires a background check of all potential sponsors.")
- 2.7.4 Deny Release Request ("The ORR/FFS may deny release to a potential sponsor if any one of the following conditions exists:...The potential sponsor would present a risk to the child because the sponsor...has been convicted of alien smuggling or a crime related to trafficking in persons.")
- 2.8.1 After Care Planning ("The care provider also provides the sponsor with a Sponsor Handbook that outlines the responsibilities in caring for the unaccompanied child's needs for education, health, obtaining legal guardianship, finding support to address traumatic

stress, keeping children safe from child abuse and neglect and from trafficking and exploitation... After care planning includes the care provider explaining the following to the unaccompanied child and the sponsor: the U.S. child abuse and neglect standards and child protective services...[and] human trafficking indicators and resources.")

Pursuant to its authority under 8 U.S.C. 1232(c)(1), ORR has recently established additional policies and procedures to provide resources and support for children after they have left ORR's custody. In May 2015, ORR expanded its Help Line to provide unaccompanied children a resource for safety-related concerns, as well as sponsors a resource for assistance with family problems and child behavior issues, referrals to community providers, and assistance finding legal support and enrolling unaccompanied children in school. Beginning May 2015, every child released to a sponsor is given a card with the Help Line's phone number. Additionally, as described in Section 2.8.4 of the Policy Guide, care providers must conduct a Safety and Well Being Follow Up Call with an unaccompanied child and his or her sponsor 30 days after the release date. The purpose of the follow up call is to determine whether the child is still residing with the sponsor, is enrolled in or attending school, is aware of upcoming court dates, and is safe. The care provider must document the outcome of the follow up call in the child's case file, including if the care provider is unable to contact the sponsor or child after reasonable efforts have been exhausted. If the follow up call indicates that the sponsor and/or child would benefit from additional support or services, the care provider shall refer the sponsor or child to the Help Line and provide the sponsor or child the Help Line contact information. If the care provider believes that the child is unsafe, the care provider shall comply with mandatory reporting laws, State licensing requirements, and Federal laws and regulations for reporting to local child protective agencies and/or law enforcement.

More broadly, HHS is part of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons, which coordinates anti-trafficking efforts across federal government agencies. HHS has systematically worked to institutionalize anti-trafficking responses across its multiple programs and to increase coordination and collaboration within HHS and with federal partners by implementing the Federal Strategic Action Plan on Services to Victims of Human Trafficking in the United States.[3]

In June 2015, ACF established the Office of Trafficking in Persons (OTIP) to reflect the importance of anti-trafficking work, to coordinate its programs on behalf of both foreign and domestic victims, and to strengthen its attention to policy and practice issues related to addressing trafficking across ACF. The reorganization moved the anti-trafficking responsibilities from ORR's Anti-Trafficking in Persons Division to OTIP within the Immediate Office of the Assistant Secretary. This work includes the certification of foreign national victims, the Trafficking Victim Assistance Program, the Rescue and Restore Program, and the National Human Trafficking Resource Center. In addition to following mandatory reporting requirements, a care provider, post-release services provider, Help Line staffer, or other ORR grantee that believes that a child has been victim of labor or sex trafficking will refer that child to OTIP in coordination with ORR staff and the child's legal representation provider or child advocate, where applicable. Through OTIP, unaccompanied children who are victims of a severe form of trafficking may apply for an Eligibility Letter for federally-funded refugee

[3] Available at http://www.acf.hhs.gov/programs/endtrafficking/initiatives/federal-plan.

benefits and services, which may include eligibility for ORR's Unaccompanied Refugee Minors (URM) program. Children referred to the URM program are placed in licensed foster homes, group care, independent living, residential treatment settings or other care settings according to individual needs. An appropriate court awards legal responsibility to the state, county, or private agency providing services, to act in place of the child's unavailable parents.

Additional information about OTIP's programs and activities is available at: http://www.acf.hhs.gov/programs/endtrafficking

Information Regarding Unaccompanied Children Released to a Sponsor from ORR Custody

	FY 2013	FY 2014	FY 2015
Number of UCs Released to a Sponsor	19,425	53,518	27,520
Number of Home Studies Conducted*	1,041	1,401	1,942
Number of UCs Who Received Post-Release Services**	3,262	6,489	7,986

*Based on reporting by grantees that conducted home studies. Please note that this number represents the number of home studies conducted in a fiscal year and not necessarily the number of unaccompanied children released to a sponsor after receiving a home study. For example, a home study could be conducted in FY 2013, but the child may not be released from custody until FY 2014.

**Based on reporting by grantees that provided post-release services. Please note that this number represents the number of post-release services cases in a fiscal year and does not directly correlate to the number of children released in that fiscal year with post release services. Many children receive post-release services across multiple fiscal years. For instance, children released to a sponsor after a home study are eligible to receive post-release services until they turn 18 years old.

Sponsors with Criminal History

As described in our October 1, 2015, letter, all potential sponsors must complete a criminal public record check, based on the sponsor's name and address. ORR-funded care providers contract with vendors to conduct these background searches. Additionally, a fingerprint background check is required if there is a documented risk to the safety of the minor, the minor is especially vulnerable, the case is referred for a home study, any other special concern is identified, or the sponsor is not the child's parent or legal guardian. (U//FOUO) The fingerprints are cross-checked with the Federal Bureau

of Investigation's (FBI) national criminal history and state repository records, and also DHS arrest records. For an unresolved criminal arrest or issue still in process, ORR-funded care providers may conduct an additional state or local check to assist in locating arrest records or other criminal offense details.

Information gathered through these criminal background checks, including any criminal history of the potential sponsor, is contained in the relevant unaccompanied child's case file and is reviewed and considered as part of the release decision process.

Specifically, in the event that a background check of a potential sponsor or, if applicable, adult household member(s) reveals a criminal history or a safety issue, the care provider evaluates this information and works with the potential sponsor to obtain detailed information on any charges or adjudications that have bearing on a sponsor's ability to provide for the child's physical and mental well-being. ORR may deny release based on a potential sponsor's criminal history or pending criminal charges if it is determined that the criminal history compromises the sponsor's ability to ensure the safety and well-being of the child.

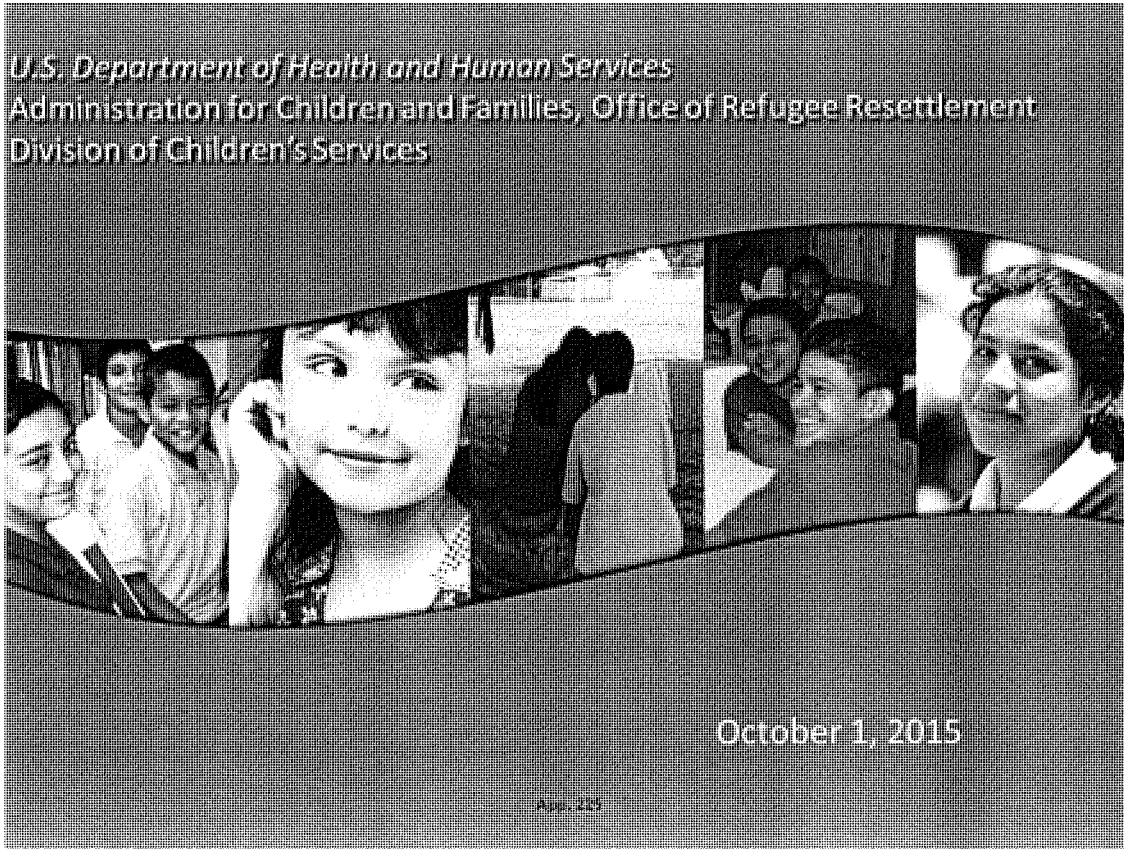
While information bearing on a sponsor's criminal history is contained in a child's case file, ORR's computer systems currently do not have the capability to generate reports that aggregate this data.

Estimated Cost of Providing Care

For FY 2016, based on grantees' budget assumptions, the average estimated monthly cost of care for an unaccompanied child in a permanent standard shelter is approximately $7,694. Shelter costs make up about 85 percent of the total cost of care for a child in ORR custody. The estimated cost for a standard shelter bed is $223/day. This includes educational services, which are provided directly by the care provider grantees. Thus, the average estimated shelter costs for an unaccompanied child for one month is approximately $6,690. Other services that contribute to the total cost of care include program administration, medical services, legal services, and certain services related to family reunification, such as background checks, home studies, and post-release services.

Estimated Cost of Providing Post-Release Services

For FY 2016, based on grantees' budget assumptions, the average estimated cost of a post-release services case is approximately $2,349. This average cost is per case, irrespective of the length of time that case is open. For instance, this average cost takes into account cases that were open for the entire fiscal year as well as cases that may be open for only a few months.


U.S. Department of Health and Human Services
Administration for Children and Families, Office of Refugee Resettlement
Division of Children's Services
October 1, 2015
App. 233

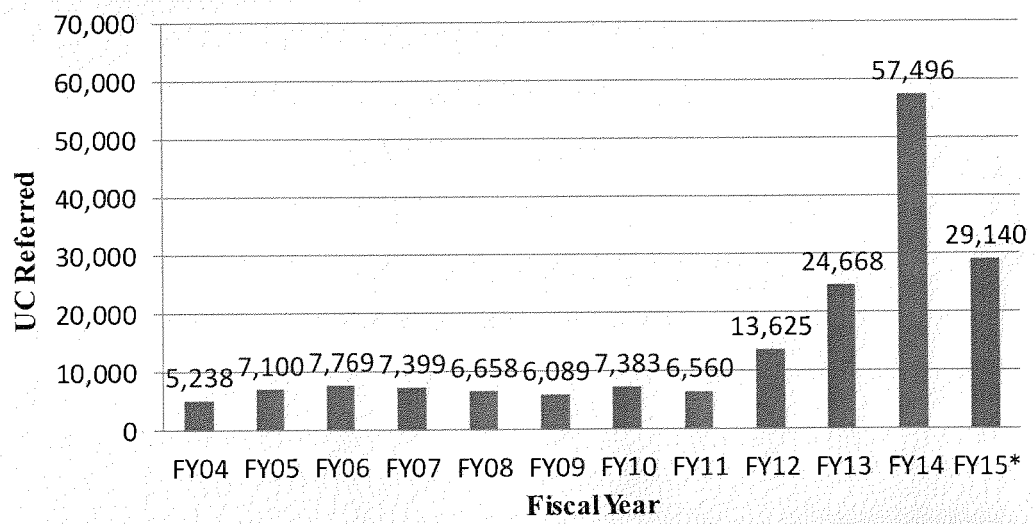
Discussion Overview

- Background and Demographics of Unaccompanied Children (UC) Referred to ORR
- Role of ORR as Related to UC
- Flores Settlement Agreement
- TVPRA of 2008
- Trafficking Screening
- Release from ORR Custody
- Post-Release Services

Referral to ORR Care

- Unaccompanied children are referred to HHS/ORR for placement by another federal agency, usually DHS.
- By law, other federal agencies have to transfer custody of unaccompanied children to ORR within 72 hours.
- The majority of children come into care because they were apprehended by immigration authorities while trying to cross the border.
- Others are referred as a result of interior apprehensions.
  - After involvement with local law enforcement
  - Immigration raids

Number of UC Referred by Fiscal Year



*FY15 YTD as of August 31, 2015

UC Demographics – Age and Gender

	Demographics of Referred UC	
	Percentage	
Age Range (years)	FY14	FY15 -YTD*
0 -5	3%	3%
6 -12	18%	14%
13-14	16%	14%
15-16	36%	39%
17	27%	30%
18+	<1%	1%
Total	**100%**	**100%**
Gender		
Female	34%	32%
Male	66%	68%
Total	**100%**	**100%**

*FY15 YTD as of August 31, 2015

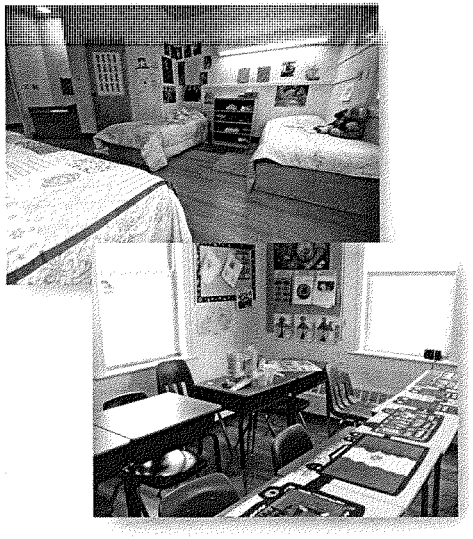
UC Demographics – Country of Birth

	Demographics of Referred UC	
	Percentage	
Country of Birth	FY14	FY15 -YTD*
El Salvador	29%	28%
Guatemala	32%	46%
Honduras	34%	17%
Mexico	2%	6%
All Other	3%	3%
Total	**100%**	**100%**

*FY15 YTD as of August 31, 2015

UC Program's Main Responsibilities

- Care and custody of unaccompanied children (provide shelter, food, clothing, and services)
- Make and implement placement and transfer decisions
- Release unaccompanied children to an appropriate sponsor



Flores Settlement Agreement

- *Flores v. Reno*, No. 85-4544-RJK (Px) (C.D. Cal. Jan 17, 1997), which is binding on the U.S. Government, sets minimum standards for services, and establishes an order of priority for sponsors with whom children should be placed, except in certain circumstances.
- Requires that unaccompanied children be placed in a licensed program, which must offer items such as medical and dental care, family planning, immunizations and screening, individualized needs assessment, education, recreation and leisure, individual and group counseling, family reunification, access to religious services, and explanation of available legal services.

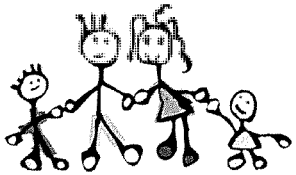
TVPRA of 2008

- The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008) directs that, subject to certain considerations, such as danger to self, danger to others, and risk of flight, unaccompanied children must "be promptly placed in the least restrictive setting that is in the best interest of the child."
- Unaccompanied children transfer to HHS custody within 72 hours upon apprehension or discovery barring exceptional circumstances.
- As soon as an unaccompanied child enters ORR's care, ORR begins the process of locating family members and others who may be qualified to care for the child. Parents, other relatives, or close family friends can apply to have the child released to their care.
- Other requirements include but are not limited to:
  - Allows for the appointment of child advocates
  - Encourages the appointment of pro bono counsel
  - Places restrictions and requirements for sponsorship, including use of mandatory home studies prior to release

Trafficking Screening

- Children are initially screened for trafficking within 24 hours of admission into ORR care, and a more thorough assessment is conducted within 7-10 days of entering ORR care (with regular evaluations for the remainder of their stay in custody).
  - Screening Categories: unaccompanied child's Journey; Coercion Indicators; Debt Bondage/Labor Trafficking; and Commercial Sex Indicators
- All screenings are completed by a trained specialist.
- Each case with trafficking indicators is staffed with the Federal Field Specialist and/or the Office on Trafficking in Persons (OTIP) if necessary.
- Cases that meet criteria are elevated to OTIP for review.
- If identified as a victim of human trafficking, OTIP issues a letter informing the minor they are eligible for services such as Medicaid, SNAP, and cash assistance.
- Eligibility letter never expires; some benefits, however, have time limits and are governed by state requirements.

Safe and Timely Release Principles



- Primary objectives
  - Care and safety of the unaccompanied child
  - Safety of others
  - Assurance that the child will appear before DHS and the immigration courts
- The timely release of an unaccompanied child to a sponsor who can provide for their physical and mental well-being.
- Each sponsor is evaluated to determine if he/she can provide a safe environment in which the child will be protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage the child in criminal, harmful, or exploitive activity.

Release Process

- The care provider interviews the child as well as parents, legal guardians, and/or family members to identify qualified sponsors
- Family Reunification Packet sent to sponsor for completion
- The care provider completes the child and sponsor assessments
- Sponsor criminal and child abuse and neglect background checks
- Home study may be conducted
- Care provider sends a release recommendation to the Federal Field Specialist (FFS)
- Third party reviewer reviews case files and makes a recommendation to the FFS
- The FFS makes the final determination

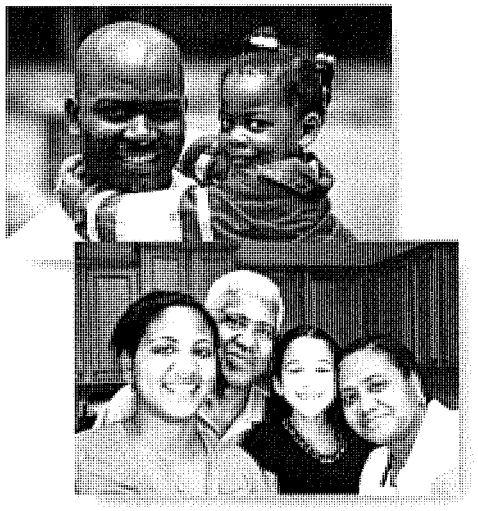
Verification of Identity and Relationship

- In accordance with TVPRA of 2008, ORR requires verification of a sponsor's identity and relationship to the child, if any, before placing a child in his or her care.
- To meet this requirement, ORR requires its grantees to complete and document a thorough assessment of the child's past and present family relationships and relationships to unrelated potential sponsors.
  - ORR accepts foreign identity cards and birth certificates to establish proof of identity and relationship.
  - If there is a question as to the authenticity of the documents, ORR will work with the issuing country's consulate or embassy to verify the documents.
  - If the grantee is unable to verify the documentation, the application will not be approved.

Home Studies – New Policy and Pilot

- Any case for which safety and well-being of an unaccompanied child, sponsor family unit, or community are questionable
- Mandatory TVPRA categories: Victim of severe form of trafficking in persons; Special needs with disability (ADA); Victim of physical or sexual abuse – health or welfare significantly harmed; Proposed sponsor presents risk of exploitation or trafficking to child
- In July 2015 ORR implemented policy requiring a mandatory home study before releasing any child to a non-relative or distant relative sponsor who is seeking to sponsor multiple children, or has previously sponsored a child and is seeking to sponsor additional children.
- In July 2015 we initiated a home study pilot program, requiring a home study for all children age 12 and under who are being released to a non-relative or distant relative sponsor.

Release from ORR Custody



Type of Sponsor	FY14	FY15
Parents	59%	54%
Siblings	12%	16%
Grandparents	1%	1%
Aunts/Uncles	13%	15%
Other Relatives	3%	6%
Non-Relatives	12%	7%

Post-Release Services

- TVPRA requires HHS to provide post-release services to children released to a sponsor after a home study has been conducted and authorizes HHS to provide post-release services to "children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency."

- ORR has identified certain children with "other needs" to whom HHS is piloting post-release services:
  - Children released to a non-relative sponsor
  - Released children within 180 days of placement if placement has already disrupted or is at risk of disruption and the child or sponsor has contacted the ORR Help Line and has been referred for post-release services.

- ORR implemented a Help Line to accept calls from unaccompanied children or their sponsors seeking assistance with post-release concerns. The Help Line, which began May 15, uses an existing ORR hotline to provide support and referral to local services.
  - Information about the availability of the hotline is distributed to each child discharged from ORR care provider facilities to ensure they are aware of the new resource. All providers and sponsors are also provided with the hotline phone number.

UC Program Information

ORR website:
http://www.acf.hhs.gov/programs/orr

UC program website:
http://www.acf.hhs.gov/programs/orr/programs/ucs

Data for unaccompanied children released to sponsors by state:
http://www.acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors

DRAFT

To: **Mary Wakefield (Acting Deputy Secretary)**
Mark Greenberg (Acting Assistant Secretary for the Administration for Children and Families)

From: **Hannah Stott-Bumsted**

Re: **After Action Report: The Unaccompanied Children Program and the May-July 2014 Surge**

HHS and the Administration for Children and Families (ACF) are responsible for the Unaccompanied Children (UC) program. During the months of May-July 2014, there was a significant and unprecedented surge in the number of children referred to the UC program. Although ORR and ACF leadership and staff during that time worked tremendously hard, the efforts to address the surge highlighted certain challenges in program structure and operations, as well as in intradepartmental and interdepartmental coordination. Over the past year, much work has been done by ACF, in consultation with others at HHS, across the administration, and with external partners, to address these challenges. What follows is a summary of some of the programmatic challenges and accomplishments to date, as well as some suggestions for additional potential after-action work identified by those involved in these efforts.

1. ORR and UC Program Staffing

a. Programmatic Challenge & Accomplishments To Date

ORR and the UC program entered the surge with an extremely leanly-staffed organization, and one that was disproportionately dependent on contractors in relation to federal staff. This was a reflection of a number of factors: among others, the rapid expansion of the program in the two years prior to the 2014 surge, during which UC referrals and the program's budget rose significantly; difficulties in hiring due to federal budgetary restrictions and hiring freezes, and the UC program's historic reliance on grantees to perform most service responsibilities. The number of referrals from DHS more than doubled each fiscal years beginning in FY11: from 6,560 in FY2011, to 13,625 in FY2012, to 24,688 in FY2013, and to 57,496 in FY2014. During this time, the program's budget also increased from approximately $150 million in FY 2011 to over $912 million in FY14. However, since FY2011, the program had managed with a modestly-increasing number of FTE's, from approximately 40 in FY2012 to 48 in FY2013 and 56 at the beginning of FY2014.

In July 2014, ACF undertook a broad solicitation for detailees to assist ORR on a temporary basis. While some detailees were eventually utilized, it was sometimes difficult for ORR to identify ways to train and deploy these detailees in a timely manner.

In the past year, ACF has taken several steps to address staffing issues and is better situated to address the current and anticipated future demands of the UC program.

- **Hiring.** ACF approved and recruited for 72 new ORR positions, as well as two medical staff positions, for a total of 74 additional positions. This level of staffing is projected to support the FY2014 referral level of 58,000 UC for FY2015 and beyond. The new positions include field specialists, project officers, program specialists, Commissioned Corps Officers focusing on health, and new policy and data positions. All of these new staff are now in place..
- **Training.** ACF has assembled and delivered an intensive, week-long training session to orient new (and existing) field staff to all of ORR's procedures and policies.
- **Enhanced senior management**. ACF has established new senior management in ORR, including a Deputy Director for Children's Services and a Chief of Staff, both new positions.

b. Further Efforts To Consider

In light of the rapid expansion of the UC program (and its proportional expansion within the ORR portfolio), ACF should consider conducting a more fundamental review of ORR's structure. As part of that review, ACF should consider:

- Reviewing the organizational structure of ORR, including consideration of retaining outside expertise to assist in the review, to ensure that the staff expansion is accompanied by appropriate review and refashioning of the management, reporting and delegation structures in ORR;
- Ensuring that the UC program specifically has the dedicated management staffing needed in critical areas (e.g. medical services, data management); and
- Reviewing and enhancing ORR's ability to quickly identify, train and utilize detailees if needed in the event of a future influx.

2. Policy Development

a. Programmatic Challenge & Accomplishments To Date

The demands of the 2014 surge underscored the critical need for the UC program to maintain a clear, definitive, accessible and transparent repository of important policies governing its administration. While a UC policy guide had been in draft form for some years, the lack of a final set of policy resources hampered the program both internally (staff were sometimes at a loss in identifying guidance to follow) and externally (it was difficulty to provide outside stakeholders with clear, timely answers to policy-oriented questions).

To address these challenges, ORR has created a Division of Policy, whose initial focus has been specific to finalizing policies and regulations in support of the UC program. The

Division is now assessing and evaluating ORR programs and their legal authorities and proactively recommending policy development, regulation updates and changes, and operational and management actions to comply with statutory parameters. The Division of Policy will serve as a clearing house for development of informational memoranda, briefing materials and summary statements for ACF and department leadership on complex and sensitive ORR matters. To date, through the work of this Division, ORR has published on its website a Policy Guide (http://www.acf.hhs.gov/programs/orr/programs/ucs) comprising an extensive set of policies and procedures that cover these major topics:

- Placement in ORR Care Provider Facilities
- Safe and Timely Release from ORR Care
- Summary of Services
- Preventing, Detecting, and Responding to Sexual Abuse and Harassment
- Program Management

b. Further Efforts To Consider

ACF should also consider the following:

- Continuing to expand the robustness of the Policy Guide to address additional and emerging questions as they arise in the course of program administration, and creating a process for flagging and elevating issues that require formal policy development
- Sustaining an iterative training process for ORR staff and grantees, so that they remain current on UC policies as they evolve;
- Educating (and re-educating) external stakeholders on the existence and purpose of the Policy Guide, to encourage its use as a first-line resource as questions arise; and
- Recognizing that unique or emergency conditions (such as a future influx) may require situation-specific exceptions to established policies, and creating a clear process for making exceptions to policy if and as warranted.

3. Program Management

a. Programmatic Challenge and Accomplishments To Date

The pressures of the 2014 surge threw into sharp relief ORR's need for additional tools to manage the UC program. For example, entering the surge, ORR had little excess shelter bed capacity, and very limited options for increasing that capacity on short notice. Even allowing for the unpredictability in UC arrivals, a data point completely outside ORR's capacity to monitor or control, the program has had limited ability to use its program data effectively to do pro-active planning. Its traditionally exclusive reliance on grant mechanisms to secure shelter beds and other services constrained its flexibility in identifying agile and cost-effective responses to rapidly changing demands. The program was further hampered during the surge by inadequate

and uncertain funding levels, and limited ability to track actual expenditure levels in or close to real time.

Significant progress has been made on these fronts since the 2014 surge. In FY 15, ORR had significant excess bed capacity, enabling it to absorb increases in referrals during the year without needing to use emergency options. ORR has adjusted grantee funding downward by fixed amounts in certain cases to reflect the decreased workload associated with vacant beds, while allowing grantees latitude to determine how to implement budget reductions. And steps are being taken to improve the timeliness of expenditure tracking.

The Bed Capacity Framework, completed in January 2015, identifies a broad range of options to expand standard and temporary bed capacity, and frames the most significant decisions that will need to be made, and the timing of those decisions, in order to assure adequate capacity for a range of referral scenarios and another potential future surge. The renewal through calendar year 2015 of the HHS/DOD agreement for contingent temporary shelter support is a key element of the Framework, as are a range of ORR actions relating to previously-solicited standard shelter capacity, and exploration of other federal, non-DOD temporary shelter options. ACF is now positioned to use the Framework to monitor its activities moving forward, and to ensure that decisions are made (and if necessary, elevated to appropriate levels for decision) at times that will allow for sufficient preparation to deal with significant changes in UC referrals and bed demand. The Framework has been fully socialized within the Department and with HHS's partners in the UC program, so that they too are aware of the contingency options available to the program in the event of future need.

ORR has been working to develop a UC dashboard, which will function both as an internal management tool, and a resource for governmental partners, to receive a snapshot of program status on key indicators. And perhaps most significant, ORR is able to enter into (as needed) Indefinite Duration, Indefinite Quantity (IDIQ) contracts for a range of services: Shelter Staffing, Wrap-Around Support Services, Training and Technical Assistance, Transportation, and Medical Staffing and Equipment. This is significant because it expands beyond grants the procurement options available to ORR, offering greater flexibility and cost-effectiveness in matching service capacity to projected need. Beyond surge planning, this could be an important step in ORR's operational maturity over the long term.

b. <u>Further Efforts To Consider</u>

Building on this progress, important next steps to consider include:

- Continuing to monitor and refine the balance between the maintenance of a responsible degree of excess shelter capacity for contingency purposes, and conservation of budgetary resources;

- Further refining the budgetary tools available to ORR to support prudent levels of grantee funding and target grantee resources appropriately, in situations where responsible planning requires the maintenance of an inventory of vacant shelter beds.
- Reviewing the process flow of UC from referral from DHS to discharge from post-release services, where applicable, to identify opportunities for efficiencies.
- Finalizing and implementing the UC dashboard tool, and disseminating the tool to essential partners as a resource for up to date information about the UC program.
- Further refine and develop the Bed Capacity Model, for continued use in the development of future Bed Capacity Frameworks and scenario planning.

4. UC Case Handling

a. Programmatic Challenge and Accomplishments To Date

As part of its management of bed capacity and associated costs, ORR has continued to refine policies and procedures to promote the safe transferring of UCs to sponsors more expeditiously than in the past. The number of children in ORR custody is, of course, a function of both the pace of referrals from CBP, and the pace of discharges to sponsors. The ratio of discharges to referrals in FY2014 and FY2015 has been higher than in the early years of the program, a trend that began in FY2012. Between FY2008 and FY2011, monthly discharges as a proportion of the total caseload fluctuated from as low as 30 percent to a high of slightly over 50 percent. With the increase in the number of arrivals and ORR's efforts to reduce length of stay, the ratio rose significantly in FY2012 and 2013 and more dramatically in 2014, with discharge ratios in excess of 80 percent most months and approaching 100 percent from June through August. High rates of discharges, relative to to the levels preceding the surge, continued in FY2015. Looked at differently, average length of stay (LOS) in FY2014 was approximately 29 days, far shorter than in prior years. While LOS dipped to a low of 16 days in June 2014, because of the pressure to free up bed space and the disproportionately large number of referred "Category I" children with a parent already in the US, ORR has maintained a LOS in FY2015 well below the levels preceding the surge. However, average LOS in FY15 rose to 34 days, in part due ot the decline of Category 1 placements and to procedural safeguards implements which increased the period of time required to complete background checks, including home studies of prospective sponsors. ORR management is carefully analyzing case data to identify opportunities to further reduce the time required to complete background checks without increasing the risk of harm to children.

In recognition of the expanding need for UC legal services post-release, ACF supplemented its longstanding program of in-shelter legal counseling and services with the implementation in October 2014 of the Direct Representation Project, through which local organizations are representing children post-release to sponsors. This program has been

incorporated into the overall ORR legal services efforts with the issuance of new contracts in September 2015 to provide legal services to UC both in ORR custody and post release.

ORR has implemented a number of programmatic changes intended to further safeguard children after release:

- Expanded the scope of its National help Line to serve as a Help Line for UC and sponsors ;
- Implemented a pilot requiring home studies to be performed before release of children under age 13 to a Category III sponsor (distant relative or unrelated adult) and post-release services for all children released to a Category III sponsor; and
- Required home studies in cases in which a Category III sponsor sought to sponsor more than one child to whom the sponsor was unrelated.

b. Further Efforts To Consider

Moving forward, ORR should consider these next steps:

- Continue to monitor closely key program indicators like length of stay, as well as indicators that could be suggestive of post-release risk to UCs (e.g. multiple-child sponsor situations that could be indicative of trafficking), to ensure that the goals of expeditious UC sponsor unification and UC safety are being appropriately balanced;
- Give serious review to the post-release service needs of UCs and sponsors, and the possible expansion in both the reach and scope of post-release services that might be expected to flow from a new, earlier-release norm in the program; and
- Review ORR's longstanding and newly-implemented legal services programs, with a goal to meeting the largest possible proportion of need (both during shelter placement and post-release) not currently being met through other programs and resources.

5. Cross-Government Coordination

a. Programmatic Challenge & Accomplishments To Date

During the 2014 surge, the President directed the Secretary of Homeland Security to establish an interagency Unified Coordination Group (UCG) to ensure unity of effort across the executive branch in the UC response. The Secretary in turn directed FEMA to serve as the Federal Coordinating Official to lead and coordinate the UCG. Within HHS, ACF and ASPR have been active participants in the UCG along with CBP and ICE, and supportive entities include DoD, GSA, the Coast Guard, USCIS, DoS, and DHS' Office of Health Affairs. The UCG has finalized a Surge Plan that would guide interagency actions during a future surge. The Plan frames assumptions reflecting a potential worst-case scenario for planning purposes, one in

which the influx of UC could range as high as 145,000, and monthly peaks could be as much as 20,000 and span multiple months. The Plan establishes specific triggers that would lead to higher levels of situational awareness and interagency activity, as UC flows increase, or CBP holding capacity and ORR vacant bed capacity decrease. At this time the close coordination supported by the UCG has continued to work well, as evidenced by the smooth transition from Steady State operations to Enhanced Coordination as directed by the UCG Surge Plan, when the circumstances met the agreed upon triggers in July 2015.

ORR has been working directly and closely with DoD, both to support renewal of the agreement under which DoD would provide up to 5,000 temporary UC beds with 30 days' notice in an emergency situation, and to preliminary identify the specific DoD locations that would be most viable for this purpose from the perspective of both agencies. ORR has also been working with GSA to review its inventory of federally-owned or –leased properties that might be suitable for temporary shelter facilities, and begin the process of assessing their viability. And ACF/ORR continues to coordinate closely with DHS/HQ as needed, and similarly with NSC and OMB.

b. Further Efforts To Consider

Some discussion has taken place about an appropriate successor to FEMA in the role of coordinating the interagency response, with two potential options of the HHS SOC, or the DHS Southwest Border Task Force, in addition to reviewing other HHS/ACF potential capabilities. In addition, a determination is needed as to the intensity of interagency coordinating activity that is needed during a "normal operations" phase. However, given the current Enhanced Coordination status, it is unlikely that a significant change in UCG structure will be made at this time.

- When appropriate, as circumstances continue to evolve, the HHS representatives on the UCG should discuss and elevate to IOS a recommendation for an HHS position on transition of the UCG function, and the scope and intensity of interagency coordination needed during normal operations;
- Once established, HHS should advocate its position through interagency channels

6. Intra-HHS Coordination

a. Programmatic Challenge & Accomplishments To Date

A number of steps have been taken over recent months to improve internal communication and coordination within HHS on the UC program and response. A dedicated ACF/IOAS coordinating unit conducts weekly update calls to keep STAFFDIVs current on significant program developments and to give them an opportunity to advise ACF/ORR of important information.

b. Further Efforts To Consider

To be as well-prepared as possible for a future influx, ORR should consider:

- Continuing regular UC program update calls, to be coordinated by ORR, and involving participation by all potentially-involved STAFFDIVs;
- Determining IOS needs for regular information flow on the UC program, and structuring a mechanism to ensure that those needs are being met;
- Convening discussions between ACF/ORR and ASPA, ASPR and IEA to identify actions to improve communication and coordination in future influx-response situations; and
- Identifying a temporary leadership group that would coordinate all aspects of ORR's response in the event of a future influx. This group would not necessarily need to be a new or different set of individuals, but response coordination would be their full-time job during an influx, so others would need to take over their regular duties. ORR should consider identifying temporary influx leads for operations, site selection, data management, policy, communications and medical screening.

7. Data Management

a. Programmatic Challenge and Accomplishments To Date

The FY2014 influx placed unprecedented demands on ORR to collect and report publicly on UC data. Although ORR has a relatively robust data portal, it was designed for internal case management purposes, not for reporting to external stakeholders. Requested data were not easy to access and contractors were needed for data manipulation, which hampered ORR's ability to do analyses quickly. In addition, ORR had just started using the portal in January 2014; at the time of the influx, the portal's operational capability was not fully built out and users still were being trained on it. As a result, some manual data collection processes needed to continue during the influx, making the portal less useful as a single data source.

In recent months, ORR has made great strides in enhancing the data portal's capability, and in training ORR and grantee staff on how to use it most effectively. Additional data staff have been hired to supplement ORR's capacity to manage the portal and design and run data analyses and queries. This new team has also taken responsibility for operating and maintains the ASPE Bed Capacity Model as well as the newly developed Bed Capacity Matrix. To meet Departmental security requirements, the portal was migrated to the Parklawn Data Center in January, without incident or interruption to program use.

b. Further Efforts To Consider

The portal has additional potential to produce data for analytic purposes. In light of these unrealized opportunities, ORR should consider:

- Seeking external consultation on organizational best practice in the application of analytics to ORR's management needs;
- Identifying key operational indicators and developing appropriate management information reporting.
- Continuing to enhance ORR's internal, staff-supported capability to manage the portal;
- Continuing to enhance ORR's ability to provide internal, staff-support data analysis to senior management; and
- Establishing appropriate training protocols on ensuring confidentiality of sensitive information.

DEPARTMENT OF HEALTH & HUMAN SERVICES Office of the Secretary
Washington, D.C. 20201

To: [redacted]

Through: Mary Wakefield, Acting Deputy Secretary

Through: Mark Greenberg, ACF Acting Assistant Secretary

From: Bobbie Gregg, ORR Deputy Director

Subject: ORR Interim Proposal to Expand Post-Release Services -- DECISION

Date: June 18, 2015

Overview

The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires HHS to provide post-release services to unaccompanied children (UC) released to a sponsor in cases where a home study was conducted prior to placement and also authorizes HHS to provide post-release services to "children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency." This has represented a relatively small portion of UCs in the past. In FY 2014, for example, ORR conducted 866 home studies and provided post-release services for 3,989 UC, or approximately 7% of the total number released to sponsors.

ORR is conducting a review of its current post-release services and considering what, if any, changes should be made. ORR will complete the process of developing its recommendations by July 1, 2015. In the short-term, ORR has identified certain children with "other needs" to whom ORR proposes to pilot post-release services while we consider whether more substantial changes are warranted:

- children released to a non-relative sponsor and
- children whose placement has disrupted or is at risk of disruption and who are within 180 days of placement.

We would like your approval to move forward with this pilot on July 1st.

Children Released to a Non-Relative Sponsor

A number of factors have been identified that increase the risk of child maltreatment including the presence of unrelated adults living in the home with a child and the age of the child. There are other factors that increase the risk of exploitation of unaccompanied children by unrelated adults, including the risk that the sponsor may be expecting the child to work to pay existing debt or to cover the child's expenses while living with the sponsor. Finally, an unrelated adult may lack the type of affection for a child that results in prioritizing the child's well-being over other considerations. For all of these reasons, in identifying potential sponsors, ORR affords the

lowest preference to and performs the most extensive background review of prospective sponsors who are unrelated to the unaccompanied child.

In consideration of the increased risk of harm or exploitation to children released to a non-relative sponsor, ORR has identified this population of children as having "other needs" that could benefit from ongoing assistance from a social welfare agency. ORR proposes that effective July 1, 2015, ORR will, on a pilot basis:

- offer post-release services to all children released to a non-relative sponsor, and
- perform pre-release home studies for all children age 12 and under being released to a non-relative sponsor.[1]

In FY 2014, ORR released 4,952 children to non-relative sponsors (9.2%) and through May 31, 2015, has released 1,516 children to non-relative sponsors (11%). ORR estimates that this pilot will result in providing post-release services to an additional 250 children and performing home studies for approximately 65 of those children during the remainder of FY 2015.

Placement Disruption

Effective May 15, 2015, ORR expanded its Help Line to accept calls from UCs or their sponsors seeking assistance with safety-related concerns. To date, ORR has received 23 calls from youth and sponsors in situations in which the placement has disrupted or is at risk of disruption.[2] When placement has disrupted, a youth is especially vulnerable to exploitation. Accordingly, ORR proposes effective July 1, 2015 on a pilot basis, to offer post-release services to youth and/or sponsors within 180 days of placement when:

- placement has not yet disrupted, but is at risk of disruption[3] due to conflict between the youth and sponsor, and

[1] TVPRA requires HHS to conduct home studies for a child of any age "whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation or trafficking to the child based on all available objective evidence." We are proposing conducting home studies for non-relative sponsors of younger children in all cases because of the increased vulnerability of younger children who after release have less access than older children to caring adults, such as teachers and school counselors, and less opportunity to contact the ORR Help Line should the need arise.

[2] Placements have disrupted for a number of reasons, including but not limited to conflict between the youth and the sponsor, sponsor neglect or abuse, or youth preference. In nine of the 23 cases the youth is living with a friend, relative or other adult, in 13 cases the youth's whereabouts are unknown, and in one case the child has been taken into state care.

[3] The process for the safe and timely release of an unaccompanied child from ORR custody involves many steps, including the verification of sponsor identity, review of the sponsor application and supporting documentation, and evaluation of the suitability of the sponsor considering the sponsor's relationship to the child, the child's age, results from the sponsor background checks, and in some cases home studies. However, after release conflict, abuse, neglect or exploitation may occur that was not predicted at the time of placement. In instances where these problems surface within 180 days of placement, ORR proposes to offer post-release services. Of course, in appropriate circumstances, ORR notifies law enforcement and child protective services.

- placement has already disrupted and the UC is living in another household.

At this time, we are unable to estimate the number of children and sponsors likely to be served due to placement disruption or the types of services that these children and sponsor may need. The pilot will provide HHS with data from which to determine the scope of this need, as well as to identify whether any changes in pre-release practice would reduce or obviate the need for certain post-release services.

The proposed pilots can be funded through the FY 2015 budget without reprogramming or reducing any other services in the UC program. Continuation of this expansion of post-release services in FY 2016 will be dependent on funding and consideration of the entire array of post-release service options.

DECISION: Do you approve ORR moving ahead with the pilot on July 1st?

_____ _____ _____
Yes **No** **Need more information**

FY15 Expansion of Post-Release Services

Effective Date	Service Enhancements
5/15/2015	• ORR Help Line was expanded to accept safety-related calls from UCs and sponsors.
7/1/2015	• ORR will perform home studies on all prospective non-relative sponsors of children ages 12 and younger. • ORR will offer post-release services to all non-relative sponsors. • ORR will offer post-release services to youth and/or sponsors within 180 days of placement if the placement has disrupted or is at risk of disruption. • ORR will submit recommendations for further post-release service enhancements.
9/30/2015	• ORR will require all sponsors to review a post-release orientation video before placement of a UC with the sponsor. • ORR will publish post-release resource handbooks on the ORR website. • ORR will distribute the resource handbooks to each child and sponsor when a UC is released to a sponsor.

Unaccompanied Children's Program
Interim Proposal to Expand Post-Release Services
June 16, 2015

The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires HHS to provide post-release services to children released to a sponsor after a home study has been conducted and authorizes HHS to provide post-release services to "children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency." In FY14, ORR conducted 866 home studies and provided post release services for 3,989 unaccompanied children (approximately 7% of the total number released to sponsors).

ORR is conducting a review of its current post-release services and considering what, if any, changes should be made to provide services to additional children and/or to amend the types of services offered. ORR will complete the process of developing its recommendations by July 1, 2015. In the interim, ORR has identified certain children with "other needs" to whom ORR proposes to pilot post-release services:

- children released to a non-relative sponsor and
- children whose placement has disrupted or is at risk of disruption and who are within 180 days of placement.

Children Released to a Non-Relative Sponsor
A number of factors have been identified that increase the risk of child maltreatment including the presence of unrelated adults living in the home with a child and the age of the child.[1] There are other factors that increase the risk of exploitation of unaccompanied children by unrelated adults, including the risk that the sponsor may be expecting the child to work to pay existing debt or to cover the child's expenses while living with the sponsor. Finally, an unrelated adult may lack the type of affection for a child that results in prioritizing the child's well-being over other considerations. For all of these reasons, in identifying potential sponsors, ORR affords the lowest preference to and performs the most extensive background review of prospective sponsors who are unrelated to the unaccompanied child

In consideration of the increased risk of harm or exploitation to children released to a non-relative sponsor, ORR has identified this population of children as having "other needs" that perhaps would benefit from ongoing assistance from a social welfare agency. ORR proposes that effective July 1, 2015, ORR will, on a pilot basis:

- provide post-release services to all children released to a non-relative, and
- perform home studies before release for all children age 12 and under being released to a non-relative sponsor.

In FY14, ORR released 4,952 children to non-relative sponsors (9.2%) and through March 31, 2015, has released 751 children to non-relative sponsors (7%). ORR estimates that this would result in providing

[1] Centers for Disease Control and Prevention, Child Maltreatment: Risk and Protective Factors (May 29, 2015) http://www.cdc.gov/ViolencePrevention/childmaltreatment/riskprotectivefactors.html#Risk Factors for Perpetration

post-release services to an additional 250 children and performing home studies for approximately 65 of those children during the remainder of FY15.

Placement Disruption

Effective May 15, 2015, ORR expanded its Hotline to accept calls from UCs or their sponsors seeking assistance with safety-related concerns. To date, ORR has received a number of calls from youth and sponsors in situations in which the placement has disrupted or is at risk of disruption. Sponsor relationships have disrupted either as a result of the youth choosing not to live with the sponsor or the sponsor refusing to allow the youth to continue to live with the sponsor. Placements may be at risk of disruption for a number of reasons, including but not limited to conflict between the youth and the sponsor, sponsor neglect or abuse, or youth preference. When placement has disrupted, a youth is especially vulnerable to exploitation. Accordingly, ORR proposes effective July 1, 2015 on a pilot basis, to offer post-release services to youth and/or sponsors within 180 days of placement when:

- placement has not yet disrupted, but is at risk of disruption, and
- placement has already disrupted and the UC is living in another household.

At this time, we are unable to estimate the number of children and sponsors likely to be served due to placement disruption or the types of services that these children and sponsor may need. The pilot will provide HHS with data from which to determine the scope of this need, as well as to identify whether any changes in pre-release practice would reduce or obviate the need for certain post-release services.

The proposed pilots can be funded through the FY15 budget without reprogramming or reducing any other services in the UC program. Continuation of this expansion of post-release services in FY16 will be dependent on funding and consideration of the entire array of post-release service options.

FEB 22 2016

The Honorable Claire McCaskill
Ranking Member
Permanent Subcommittee on Investigations
Homeland Security & Government Affairs Committee
U.S. Senate
Washington, D.C. 20510

Dear Senator McCaskill,

I am writing to follow up with you regarding your questions in the January 28, 2016, hearing before the Permanent Subcommittee on Investigation (PSI) regarding its report, "Protecting Unaccompanied Alien Children from Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement." Unaccompanied children who make the dangerous journey from Central America to the United States, often in the hands of human smugglers, come in search of a better life. Many of the children our office comes into contact with tell stories of fleeing poverty and violence. Like you, we believe that the safety and well-being of unaccompanied children is of paramount importance. We appreciate the work of the Subcommittee on this important issue.

Clearly, these are vulnerable children in difficult circumstances, and we treat each child referred to our care with compassion and a commitment to their safety and well-being. The HHS Office of Refugee Resettlement's (ORR) Unaccompanied Children's Program in the Administration for Children and Families provides care and custody to unaccompanied children referred to it. Our mission to care for unaccompanied children who have been referred to ORR has two key parts. The first is to create a safe and healthy environment in our shelters, one that ensures access to nutritious food, clean clothes, education and medical services. The second is to identify the least restrictive placement in the best interest of the child, usually with a sponsor, for each child while they await their U.S. immigration proceedings, subject to considerations of risk of flight, and danger to the child or community. ORR's policies are based on federal statutes and are consistent with the settlement agreement in Flores v. Reno, Case No. CV 85-4544-RJK (C.D. Cal. 1996) (known as the Flores settlement agreement).

Over the last year, ORR has made a number of enhancements to its process for safely releasing children to qualified sponsors, strengthening its pre-screening protocols and augmenting the resources and protections available post-release. In addition, as described more fully below, HHS has carefully reviewed the Subcommittee's report and is working to identify additional areas where it can continue to improve the protections in place.

At the recent hearing before the Subcommittee, you asked a number of questions about HHS's responsibilities with respect to these children after their release to sponsors. As we have previously explained to the Subcommittee, HHS's longstanding view across administrations is that, under the authorities governing the Unaccompanied Children Program, once a child is released to a sponsor, ORR's legal and physical custody terminates. But the fact that our custody ends upon release does not mean that our commitment to providing resources, connecting children to services, and protecting vulnerable children from abuse or exploitation ends. We have authorities that permit us to provide a range of services and resources post-release, and we make use of that authorization to establish policies and procedures that, among other things, are intended to protect those children that may be vulnerable to abuse or exploitation after they are released from our care. Through these services and resources, if any of our provider grantees or staff have reason to believe that a child is unsafe, they comply with mandatory reporting laws, state licensing requirements, and federal laws and regulations for reporting to local child protective agencies and/or law enforcement.

The Unaccompanied Children Program provides care to children referred to its custody and is responsible for the process of releasing children to their parents, relatives or other appropriate sponsors with whom they can live during their immigration proceedings. As you know, ORR relies on the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), to provide the contours of the Unaccompanied Children Program, which we operate consistent with the *Flores* Settlement. The authorities and the resources given to the Unaccompanied Children Program in ORR set forth a system that is intended to be temporary in nature, with a focus on caring for children while in our physical custody, and releasing children to appropriate sponsors. Additionally, if Congress had intended ORR's legal custody to continue after a child is released to a sponsor, the TVPRA would not have needed certain of its post-release provisions. If HHS had continuing legal custody post-release, for example, HHS would necessarily have the authority and responsibility to provide services to the child after release. Instead, Congress specifically required follow-up services in those limited cases where a home study was conducted, and it authorized follow-up services for certain other children with mental health or other needs. In addition, section 235(c)(5) of the TVPRA (8 U.S.C. § 1232(c)(5)) discusses legal services for children who "are" in the custody of HHS as well as those who "have been in the custody of the Secretary."[1] Taken together, these examples support the conclusion that the Unaccompanied Children Program's approach to legal custody is consistent with the statute and Congressional intent.

If the intent of the Congress had been for the Unaccompanied Children Program to retain legal custody over the children after their release to sponsors, the program would have needed to be structured and resourced in a very different way. The program is not structured in a manner similar to state procedures for child foster care, in which custody of the child is transferred to the

[1] This interpretation of the TVPRA is consistent with the Government's longstanding interpretation of the *Flores* settlement agreement. Like the TVPRA, the *Flores* agreement contains references to the "release" from government custody, and it specifically distinguishes between custody and releases from custody. Paragraph 14 of the agreement states that the release of a minor is a release from "custody." Paragraph 19 states that in cases in which the former-Immigration and Naturalization Service (INS) did not release a minor, the minor "shall remain in INS legal custody." Use of the word "remain," shows that legal custody continued while the minor was held by INS in a detention facility or some other type of facility, such as a licensed program. However, once a release occurred, the minor no longer "remained" in legal custody.

state after a judicial proceeding and the child is placed with a foster parent selected and licensed by the state. State child foster care systems include, for example, foster care maintenance payments and payments for health care expenditures, which the Unaccompanied Children Program does not have the authorization or funding to provide.

Services and Resources Available to Children and Sponsors After Release

Within its current authorities, ORR deploys its resources in order to provide post-release services and resources as effectively as possible, and has improved those offerings over the last year. ORR provides post release services for any child who received a home study, on a case-by-case basis if it is determined the child has mental health or other needs, and for certain other categories of children. In Fiscal Year 2015, ORR provided post-release services for 8,618 unaccompanied children.

In July 2015, ORR began a pilot project to provide post-release services to all unaccompanied children released to a non-relative or distant relative sponsor, as well as children whose placement has been disrupted or is at risk of disruption within 180 days of release and the child or sponsor has contacted ORR's hotline.

In May 2015, ORR expanded the capability of an existing telephone hotline, used to help parents locate children in ORR custody, to accept calls from children with safety-related concerns, as well as to sponsors calling with family problems or child behavior issues, or in need of assistance connecting to community resources. Every child released to a sponsor is given a card with the hotline's phone number on it (Spanish language access as well) and all providers and sponsors are also provided with the hotline phone number.

Starting last summer, care providers now call each household 30 days after the child is released from ORR care to check on the child's wellbeing and safety.

Despite ORR's efforts to place children with appropriate sponsors and provide safety-net resources post-release, the Ohio case highlights the fact that, in some instances, dishonest people may attempt to exploit the system and break the law in order to take advantage of unaccompanied children and their families. We take any situation where unaccompanied children may be in danger extremely seriously. When we learn of alleged fraud or cases of exploitation, ORR works with all appropriate law enforcement agencies and state child welfare organizations with the goal of ensuring that—as in the Ohio case—those who take advantage of children are brought to justice to the full extent of the law and children and their families are protected. And we are continually working to review our policies to make sure that they are as strong as they can be.

While the changes ORR has made over the last year establish important new safeguards, ORR is mindful of the continued need to closely examine its policies and procedures, and is actively working to identify additional steps it can take to strengthen its program. We have reviewed the Subcommittee's report in detail and have incorporated the report findings into our ongoing review as we work to identify and implement additional program enhancements. ORR has taken a number of initial steps in recent weeks. First, ORR has posted a Senior Advisor for Child Well-Being and Safety position, which will augment existing child welfare expertise and support

leadership's development of additional program improvements related to child safety post-release. Second, ORR has established a new discretionary home study policy, which will allow ORR care providers to recommend home studies in instances not required by TVPRA or existing ORR policy. Third, ORR is working with subject matter experts across the Administration to identify and incorporate enhanced interview and document verification techniques into the sponsor assessment process. We would be happy to keep the Subcommittee informed as we continue to work to strengthen the program going forward.

While we are grateful that Congress provided the $948 million in base funding for the program requested in the FY 2016 President's Budget, Congress did not enact the requested $400 million contingency fund in the FY 2016 Omnibus appropriation. The contingency fund would have helped ensure ORR had sufficient capacity to adjust to large and unpredictable fluctuations in need for shelter capacity. Without a contingency fund, our ability to respond to significant increases in migration is compromised. It would be difficult to significantly or substantially expand post-release services without the confidence that ACF has the funding it needs to fulfill its current responsibilities to take custody of unaccompanied children, and to provide appropriate shelter and care for them until they can be placed with a parent or sponsor.

Again, thank you for your interest in the Unaccompanied Children Program and your work on this important issue. I hope you find this information helpful. Please let my staff know if we can be of further assistance.

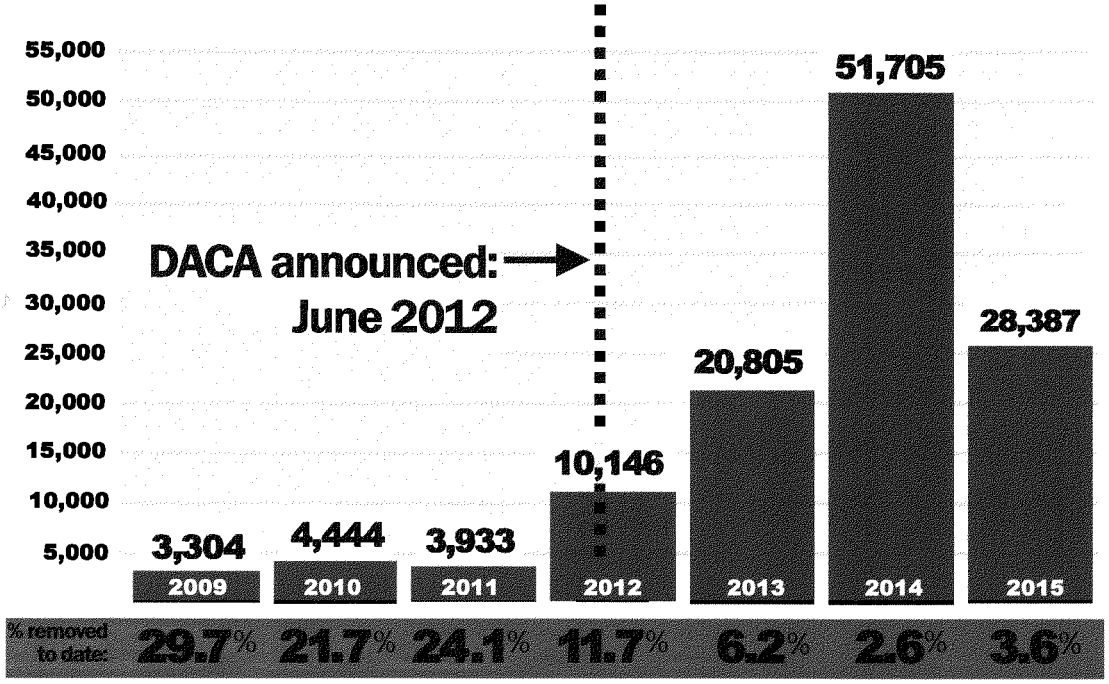
Sincerely,

Mark H. Greenberg
Acting Assistant Secretary
for the Administration for
Children and Families

cc: The Honorable Rob Portman, Chairman, Permanent Subcommittee on Investigations

UAC APPREHENSIONS

UNACCOMPANIED CHILDREN: HONDURAS, GUATEMALA, EL SALVADOR

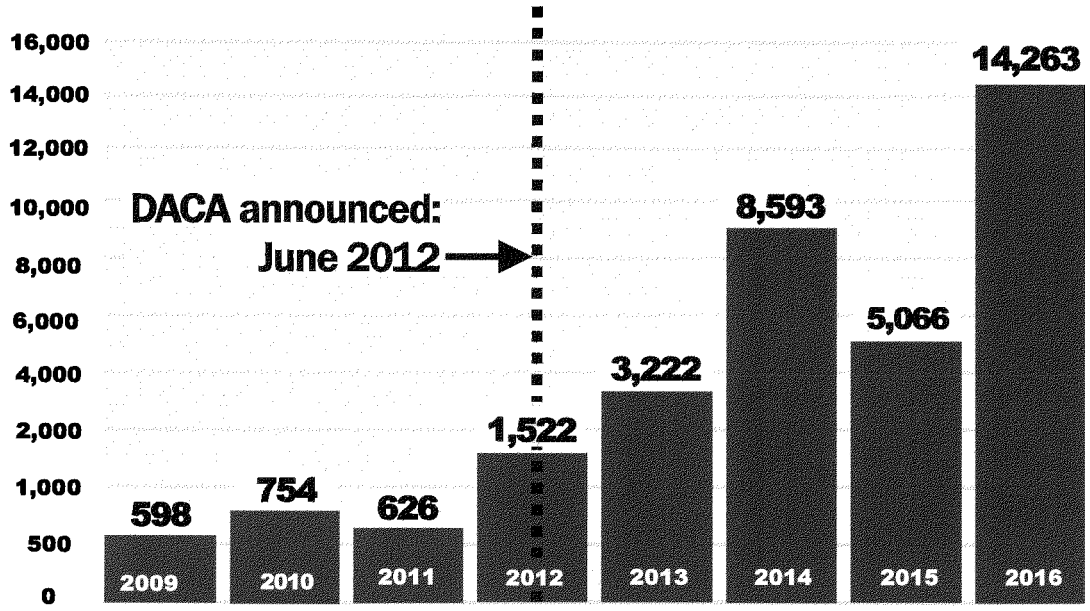


U.S. Border Patrol, U.S. Customs and Border Protection.

RON JOHNSON
U.S. SENATE

APPREHENSIONS: FIRST QUARTER

UNACCOMPANIED CHILDREN: HONDURAS, GUATEMALA, EL SALVADOR



U.S. Border Patrol, U.S. Customs and Border Protection.

RON JOHNSON
U.S. SENATE

Lutheran Immigration
and Refugee Service

FAQ: Protecting Unaccompanied Children From Trafficking or Other Harm

What happens to children when they cross the border into the United States? Are they always taken into custody by U.S. authorities?

If children are encountered crossing into the United States without permission by Custom and Border Protection (CBP) within the Department of Homeland Security (DHS), they are always taken into custody. The overwhelming majority, 93% in Fiscal Year 2014, are apprehended directly by U.S. Border Patrol (USBP) between official Ports of Entry. Other children are encountered at the Ports of Entry, which are monitored by CBP's Office of Field Operations (OFO) officers. Once children are apprehended, they are taken to short-term holding cells at either USBP stations or OFO stations where they are processed. This includes obtaining their demographic information and interviewing them about how and why they came to the United States. If they are unaccompanied and from non-contiguous countries, children are then transferred to the Office of Refugee Resettlement (ORR) for temporary placement pending family reunification.

According to the *Flores* Settlement agreement and the Trafficking Victims Protection Reauthorization Act (TVPRA), unaccompanied children must be moved out of CBP short-term holding locations and transferred to ORR custody within 72 hours of their apprehension.[1] During the summer of 2014, when an unprecedented number of children were fleeing from Central America and being apprehended at the U.S. border, CBP was unable to comply with this timeframe. Today, as the numbers of children being apprehended at the U.S. border are much lower, CBP is generally complying with this timeframe. Likewise, ORR now has the bed space to accept children more quickly from CBP custody.

For a detailed overview of the treatment of unaccompanied children, please read the LIRS report *At the Crossroads for Unaccompanied Migrant Children*.

How is this process different for children from contiguous countries (Mexico and Canada)?

Pursuant to the terms of the TVPRA, children from contiguous countries are treated differently than those from non-contiguous countries. Thus, the most important differentiation that CBP agents have to make is the nationality of an apprehended child. Children from Mexico and Canada, unlike other children, are offered fewer due process protections. While the screening in the TVPRA was intended to be protective, DHS delegated this responsibility to CBP agents instead of immigration and child welfare professionals. The TVPRA only permits the repatriation of Mexican and Canadian children if a child:

1. Is NOT a trafficking victim;
2. Is NOT at risk of trafficking if returned to their home country;
3. Has NO credible fear of return to their home country; AND
4. CAN make an independent decision to withdraw their application of admission.

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[1] *Flores* Settlement Agreement is a binding, consent agreement that establishes minimum standards for all children in federal immigration custody. The TVPRA, however, only applies to unaccompanied children.

Unfortunately, the failure by CBP to adequately screen Mexican children for potential trafficking risks and credible fear of return has been documented by both the United Nations High Commissioner for Human Rights (UNHCR) and the U.S. Government Accountability Office . It is the position of LIRS and other human rights and child welfare organizations that all children should be adequately screened and interviewed by qualified professionals with child welfare and immigration law expertise before removal. Without thorough, child-appropriate screening, children may be returned to traffickers and other dangerous situations in their home country. *See* this sign-on letter for more information.

For a chart of this screening process, please see LIRS' *Apprehension Diagram for Unaccompanied Children* in *At the Crossroads.*

What happens after a child is transferred to ORR custody? What screening is done for trafficking or other harm?

Once a child is transferred to ORR custody, a licensed, bi-lingual clinician conducts a detailed screening and full psychosocial evaluation. This includes an assessment for a variety of problems, any potential asylum claim and trafficking indicators. Trafficking screening can be incredibly challenging as many children do not realize that they were with traffickers during their journey. For instance, it is not uncommon for a girl to believe that she was brought to the United States by her adult boyfriend to get married, when in fact he is trafficking her into prostitution. The vulnerability of children and their often incomplete understanding of the situation requires ORR staff, legal representatives and social service providers to develop highly advanced skills for interviewing children and asking appropriate and detailed questions to uncover trafficking situations.

Regardless of whether trafficking indicators are uncovered while the child is in ORR custody, there may be no guarantee that trafficking will not occur once they are released. This is one reason why LIRS and other service providers have long advocated that full background checks (including Federal Bureau of Investigation (FBI) and Children Abuse/Neglect (CA/N) checks) are performed for *all* sponsors and that post-release case management services be provided to all children upon release. Currently, only a minority of children receive post-release services.

Also upon placement in ORR custody, children receive full medical check-ups, vaccinations, counseling and ORR begins the process of family reunification or placement with a suitable sponsor or foster care environment. To remain in compliance with the Prison Rape Elimination Act (PREA), children are given an orientation on how to prevent, detect and respond to sexual abuse or harassment. Children must also receive information on how to report potential abuse to ORR by using the ORR hotline.

For a chart of this process, please see: *UC Release Decision Tree* in *At the Crossroads.*

How does ORR verify that sponsors are truly a child's family?

First Step: Family Reunification Packet

As part of the family reunification process, ORR requires the completion of a family reunification packet. Sponsors are required to provide photo identification, a copy of their own birth certificate, a copy of the child's birth certificate and documents to prove the child's relationship to the sponsor. If the sponsor is not a child's parent or legal guardian, then they must submit a proof of address. These documents are detailed on the ORR website. Unfortunately, in the past, traffickers have provided fraudulent documents to sponsor children despite the efforts ORR has made to verify the identity of anyone claiming a familial relationship.

This is why LIRS and other organizations believe that CA/N checks and FBI crime history checks (digital fingerprinting) should be performed for every sponsor.

In 2014, ORR helped expedite the reunification process by allowing parents to complete the family reunification packet over the phone, so long as they provided copies of the other supporting documents.

Second Step: Sponsor Background Checks

ORR uses a range of background checks to determine if a child would be at risk under the care of a sponsor. In some cases ORR may conduct screening of other adult household members. Among these checks are:

- A **public records check** to determine if the individual has a criminal history;
- An **immigration status check through the Central Index System (CIS)** to determine if an individual has immigration proceedings that could lead to their removal from the U.S;
- A **national FBI criminal history (digital fingerprint)** check to determine if the individual has a criminal history; ***or*** an **FBI identification index** used in lieu of a FBI criminal history check when fingerprints cannot be obtained; and
- A **Child Abuse/Neglect check (CA/N check)** to determine if there is a history of child abuse or neglect, and a state criminal history repository check to determine if there are further criminal offenses. These checks are done in every state where the sponsor has reported that they have lived.

Below is a chart of the categories of sponsors and the corresponding risks and/or TVPRA requirements that would trigger each type of background check. (Current policy as of October 2015).

SPONSOR TYPE	RISK FACTORS	BACKGROUND CHECK	LENGTH OF TIME FOR CHECK
Category 1 Parents and Legal Guardians **&** **Category 2** Immediate adult relatives such as siblings, aunts, uncles, grandparents, or first cousins	**Category 1 & 2** AND **no risk factors** with child or sponsor.	Public Records check on sponsors and any adult household members where special concern	Within 7-15 days depending on the circumstances.
	Category 1 & 2 AND a **documented risk factor**/ TVPRA mandated home study	• Public Records check • Immigration Status check • FBI/fingerprints • Child Abuse/Neglect check (CA/N)—**home study cases**	• **FBI checks** can take anywhere from **4-5 days** on average (longer in certain circumstances). • **CA/N checks*** can take anywhere **from 4 weeks to 8 weeks** (depending on state backlog/priorities and sponsor's comprehension of the paperwork.
Category 3 Distant relatives and unrelated adults	**Category 3** AND **no risk factors** with child or sponsor.	• Public Records check	

	Category 3 AND **documented risk factor**/ TVPRA-mandated Home Study/Home Study for sponsors of 2 or more children (whether concurrently or past).	• Immigration Status check • Child Abuse/Neglect check (CA/N) • FBI/fingerprints	• **Home studies w/ background checks** may take longer depending on backlog with home studies and CA/N checks.

May be waived in certain circumstances, except in the states of NM or LA.

LIRS provides sponsors with a safe place for: fingerprinting services, informational packages, notary services and additional support through our Safe Release Support program.

Third Step: Child and Sponsor Interviews & Assessment of Risk

ORR requires case managers to verify a potential sponsor's identity and relationship to the child before determining whether the individual is an appropriate sponsor. This includes interviewing both the child and the potential sponsor to validate the relationship between the child and the sponsor. During this interview, ORR considers different risk factors to determine if the sponsor is suitable for the child. These risk factors include the sponsor's motivation for sponsoring the child, the wishes of the parent, the child's wishes, the sponsor's understanding of the child's needs, as well as any risk factors or special concerns the unaccompanied child might have. The screening is intended to ensure that children are placed in the safest environment possible and that they are not at risk of being abused or exploited under the sponsor's care.

Has ORR's policy towards sponsors changed in recent years?

During 2014, because of the significant numbers of arriving unaccompanied children and no commensurate increase in funding, ORR developed alternative safe release procedures to stretch post-release follow-up services. This included releasing a child with a safety plan or release with a follow-up phone call, to ascertain if post-release services were needed. While this permitted some type of follow-up there was no way for a child to have a private conversation with a social worker and ensure the child was in a safe place. This is one reason why LIRS has advocated that ORR have full funding including emergency funds so that when safe release concerns arise ORR can provide the necessary services upon release to ensure safety and community support, while also ensuring family unity.

In early 2014, ORR issued an **expedited release process** that treated category 2 and category 3 sponsors exactly like category 1 sponsors. This allowed ORR to forgo certain background checks, including fingerprinting for criminal history and CA/N checks, if there were no risk factors or TVPRA requirements for home studies. These new policies continued to require that sponsors provide documented evidence of their relationship to the child, such as the child's birth certificate or a marriage license to prove a relationship. When the number of children arriving at the border declined at the end of Fiscal Year 2014 and beginning of Fiscal Year 2015, ORR reversed its policy on this requirement.

In 2015, ORR expanded **post-release services** (as needed/requested based on sponsor reports on ORR Sponsor Helpline) and required it for all category 3 sponsors, and expanded home studies for category 3 sponsors who sponsored more than 1 unaccompanied child.

In early 2015, ORR also revised their policy on **CA/N checks**. ORR reversed its policy that children could be released to sponsors with a CA/N check pending (because they take over 4 weeks); however, waits for CA/N checks increased the lengths of stay in ORR custody up to 4-8 weeks. By late 2015, ORR permitted a procedure for waiving CA/N checks when there was no indication of child abuse or neglect.

While LIRS welcomes these changes that improve child protection while safeguarding family unity, LIRS believes that all children should have access to post-release case management services and all sponsors should be thoroughly vetted through CA/N and FBI background checks.

Does ORR do a home study on every sponsor?

No. During the family reunification process, a small percentage of children are required under the TVPRA to have a home study. These children include those who are victims of severe trafficking, children with special needs or disabilities, children who have been victims of physical or sexual abuse and sponsors who present a risk of abuse, maltreatment, exploitation or trafficking. In 2015, ORR changed its policies to require home studies before releasing any children to a non-relative sponsor who is seeking to sponsor multiple children or who is looking to sponsor an additional child (following a previous child reunification).

Children who receive a home study are required to have post-release services for the duration of their immigration court proceeding.

Do all children get post-release services through ORR?

No. Only children who have a home study as well as children who are deemed vulnerable or in need of extra services receive post-release assistance. In Fiscal Year 2014, ORR reunified 60% of unaccompanied children with parents and 30% with other family members, with as many as 53,518 placed in homes while children's removal cases proceeded. Yet ORR was only able to provide home studies for 1,434 children (or 2.5%), and post-release services to 3,989 children (or 7%).[2]

The TVPRA only mandates post-release services for children who receive a home study. ORR partners with organizations, like LIRS, to provide these services. Not only do post-release services provide critical social services to children, these services also help link children to counsel, which increases their appearance rate in court. This is why LIRS believes that ORR should be fully funded to provide short-term, post-release services for all children released from ORR care.

Must a child's sponsor have legal immigration status in the United States?

No. Sponsors do not have to have legal immigration status for a child to be released to them. If sponsors were required to have legal immigration status, many families would be prevented from reunifying, circumventing parental rights and impacting a child's developmental needs and best interests by living with his or her family. Regardless, a child still has to appear for immigration court proceedings and the vast majority of children do show up for their hearings. If they have counsel or post-release case management services, children are even more likely to attend their immigration court hearings.

For more information on children's access to counsel and services upon release, look at this backgrounder.

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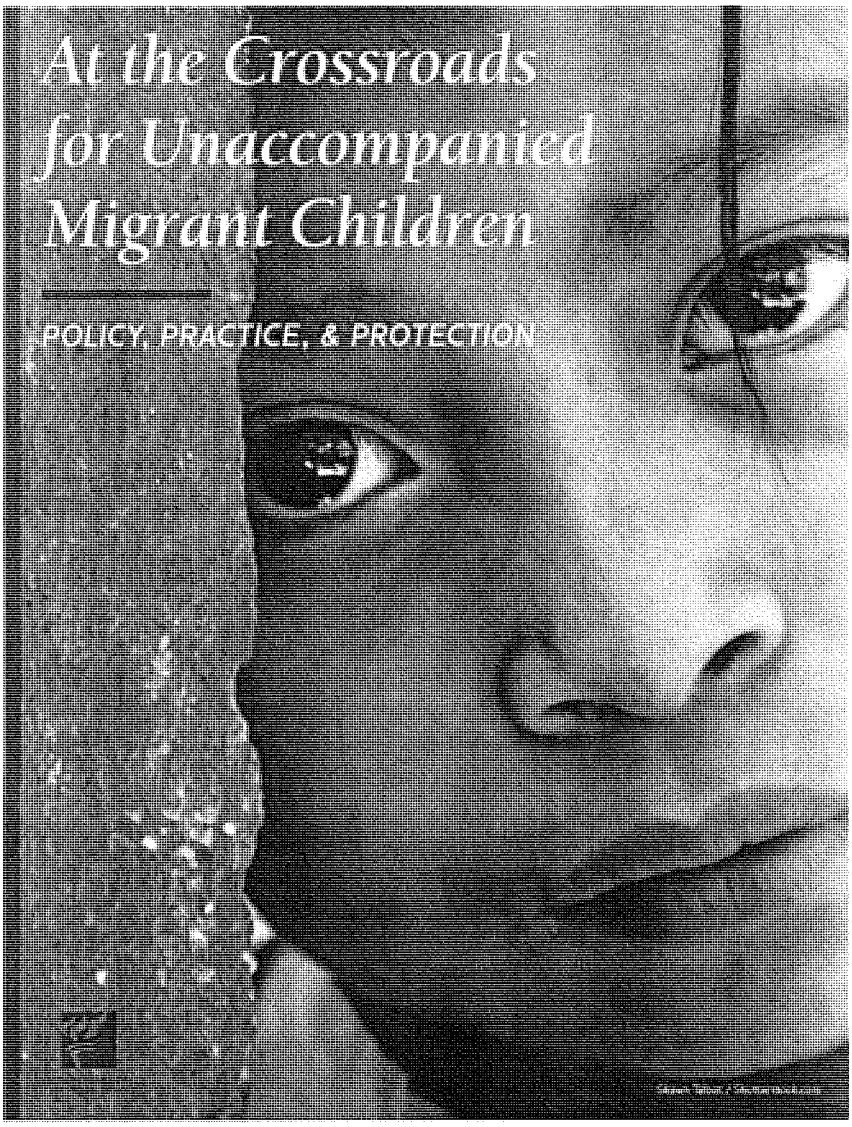
[2] Molly Hennessy-Fiske, "Young Immigrants Placed in Sponsor Homes are at Risk of Abuse, Experts Say," LATimes August 18, 2015, available at: http://www.latimes.com/nation/la-na-immigrant-sponsors-20150818-story.html

Other than providing care for the children, what else is a sponsor responsible for?

In addition to caring for the child, a sponsor is responsible for ensuring that the child attends his or her immigration court proceedings, is enrolled in school, and receives any additional care he or she might need. ORR's website clearly details the obligations of sponsors. All unaccompanied children apprehended and placed in ORR custody are put into removal proceedings. Upon release from ORR custody, ICE files a Notice to Appear in the immigration court that is in the same jurisdiction as the child's sponsor (i.e., the jurisdiction where the child now lives). Additionally, sponsors are informed of their obligations to enroll the child in school and bring the child to immigration court proceedings before a child can be released to them. Children released to sponsors have a high appearance rate in immigration court and that rate increases even more when the child has adequate legal representation and/or receives case management services (which help identify legal services).

For more information please contact:

Jessica Jones, Policy Counsel, LIRS, jjones@lirs.org or 202-626-3850


At the Crossroads
for Unaccompanied
Migrant Children
POLICY, PRACTICE, & PROTECTION

A UNIFIED VISION FOR PROTECTING UNACCOMPANIED CHILDREN:

Statement of Principles

This "Unified Vision for Protecting Unaccompanied Children" sets out a statement of principles developed through a series of roundtable discussions hosted by Lutheran Immigration and Refugee Service. The principles are timely in their application to current compelling events, and also timeless in their enduring applicability to the care of unaccompanied children beyond this immediate humanitarian crisis. While current events continue to change and evolve, along with the U.S. government's legislative and programmatic approaches to unaccompanied children, the relevance and necessity of these fundamental principles has never been greater, in order to ensure that there is no erosion of humanitarian and due process protections for the lives and safety of unaccompanied children.

Principle #1
Unaccompanied children are children first and foremost. U.S. policies and practices must recognize their unique vulnerabilities and developmental needs within a context of the best interests of the child.

Principle #2
Screening of children for persecution, abuse, or exploitation should be done by skilled child welfare professionals.

Principle #3
Children require individualized adjudication procedures that recognize a child's need for trust, safety and time, in order to disclose trauma and maltreatment; in legal proceedings, unaccompanied children need legal counsel to represent their wishes, and the equivalent of a guardian ad litem (Child Advocate) to represent their best interests.

Principle #4
Children are best cared for by their families, and family unity supports children's long-term stability and well-being. When children are in transitional situations, they should be cared for by child welfare entities in the most family-like, least restrictive setting appropriate to their needs.

Principle #5
Programs with care and custody of unaccompanied children must provide a safe and nurturing environment with trained and qualified staff who have child welfare expertise, while also preparing children and their future caregivers for a successful transition to a supportive family setting.

Principle #6
Following reunification, every unaccompanied child should receive community-based case management and support services to facilitate healthy integration and to prevent child maltreatment.

Principle #7
Children are best served when government agencies and their partners incorporate principles of accountability, collaboration, information sharing, documentation of best practices, evaluation, and quality improvement.

We represent a diverse group of service providers: both faith-based and secular, providing legal and social services, working nationally, in academia, and in local communities. Many of us have served unaccompanied children for decades, giving us a perspective beyond this immediate crisis. Some of us have worked with and provided direct services to refugee children in the U.S. and abroad, while others have focused on children in our U.S. child welfare systems. These principles developed during three national "Roundtable" meetings remained consistent in their focus on the central themes of protection, stability, accountability, and cross-system collaboration.

We are united by the certainty, and sense of urgency, that the current humanitarian crisis must be viewed through the prism of child protection and guided by these enduring principles.

Individual endorsers:

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CWS Statement to the U.S. Senate Committee on Homeland Security & Government Affairs pertaining to its hearing *Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children From Human Trafficking*, Thursday, January 28, 2016

As a 70-year old humanitarian organization representing 37 Protestant, Anglican and Orthodox communions and 33 refugee resettlement offices across the country, Church World Service urges all Senators to recognize the important role that access to protection plays in combating human trafficking. Children, families, women and men are fleeing violence, gang conscription, human trafficking, and sexual exploitation in the Northern Triangle. Since 2005, in Honduras alone, murders of women and girls have increased by 346 percent, and murders of men and boys have grown by 292 percent.[1] Asylum requests by Guatemalans, Hondurans, and Salvadorans fleeing to Mexico, Panama, Nicaragua, Costa Rica, and Belize have increased by nearly 712 percent since 2009.[2] The U.S. government has failed to recognize these trends as a refugee and humanitarian issue. The United States has moral and legal obligations under international and U.S. law to ensure that individuals seeking protection are not returned to their traffickers and others who seek to exploit them.

CWS is strongly opposed to legislation that would weaken or eliminate provisions in the 2008 Trafficking Victims Protection Reauthorization Act (TVPRA) that provides important procedural protections for unaccompanied children and assists them in navigating the complex immigration process in order to accurately determine if they are eligible for relief as victims of trafficking or persecution.[3] Indeed, unaccompanied children entering the United States are complying with U.S. law, as they have the right to seek protection from persecution and violence.[4] Weakening existing legal protections for these children would undermine the U.S. government's moral authority as a leader in combating trafficking, and would increase vulnerabilities for trafficking victims by curtailing access to due process, legal representation, and child-appropriate services. Deporting vulnerable children places them back into the hands of gangs and traffickers. Laws governing asylum should not be weakened when more children and families are in need of their protection. The U.S. Department of Health and Human Services' Office of Refugee Resettlement (ORR), the agency responsible for the care of unaccompanied children, has faced chronic underfunding, which has led to devastating consequences for refugees, asylees, and the communities that welcome them.[5] CWS urges the Administration and Congress to provide robust funding for ORR to meet the needs of unaccompanied children and all populations in ORR's care.

While CWS supports the Central American Minors Affidavit of Relationship (CAM/AOR) program, it is only one of many ways that the United States must offer protection to children fleeing violence. The program is designed to help unmarried children under the age of 21 from El Salvador, Guatemala, and Honduras who have a parent living in the United States and meet other criteria seek refugee or parole status in the United States. To apply, a parent with legal status in the United States must file an Affidavit of Relationship with a local refugee resettlement agency and undergo a rigorous screening process with a medical examination, in-person interview with the Department of Homeland Security and multiple security checks.[6] In certain cases, if the child's other parent is living with them in the Northern Triangle, they can also be included in this process. While this program will help some children reunite with their parents, it does not provide relief to the most vulnerable. The immediate and urgent need to flee after receiving threats or enduring violence makes waiting for this lengthy process a luxury many cannot afford. Children fleeing violence need protection, regardless of whether or not they have a parent living in the United States with legal status. The United States has a responsibility to provide protection for vulnerable children who cannot take part in the CAM/AOR program, including those who make the journey to the United States on their own.

CWS applauds the administration's recent announcement to work with the United Nations Refugee Agency, UNHCR, to expand refugee processing in the Northern Triangle for children and adult refugees.[7] However, refugee resettlement is a lengthy and complex process, and should never be seen as a substitute for access to protection for people seeking safety at our doors. It is highly concerning that the United States is providing increased assistance and training to military and police forces in Mexico and the Northern Triangle in order to prevent individuals from reaching the United States. Individuals intercepted in Mexico do not receive proper screenings for protection concerns, and a large percentage of those deported to their home countries are in fact eligible for international protection, making their deportation refoulement, or unsafe return, which is illegal under international, U.S., and Mexican law. That the United States is not only complicit, but is encouraging such action is incredibly troubling, unlawful, and sets a dangerous precedent in terms of territorial access and the protection of vulnerable populations.

CWS encourages all Senators to prioritize the protection of children who are in danger and seeking safety. Real solutions must address root causes, rather than escalating enforcement and preventing individuals from seeking safety. CWS is committed to working with Congress and the Administration to develop sustainable solutions to enhance the stability of the region and the protection of vulnerable populations.

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[1] Observatory of Citizen Security, La Violencia Contra Las Mujeres, 2012, <http://www.observatoriodeseguridadciudadanadelasmujeres.org/materiales/INFORME_VCM_C.A.,.pdf>; Washington Office of Latin America, Three Myths about Central American Migration to the United States, 2014, <http://www.wola.org/commentary/3_myths_about_central_american_migration_to_the_us>.
[2] United Nations High Commissioner for Refugees, An Administration Made Disaster: The South Texas Border Surge of Unaccompanied Alien Minors, June 25, 2014, <http://www.unhcrwashington.org/sites/default/files/1_UAC_UNHCR%20Statement%20for%20the%20Record_HJC%20Hearing%20on%20UACs.pdf >.
[3] William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) § 235, <http://www.state.gov/j/tip/laws/113178.htm>.
[4] Article 14, The Universal Declaration of Human Rights, <www.un.org/en/documents/udhr/index.shtml#a14>; U.S. Code Title 8: Aliens and Nationality, Chapter 12: Immigration and Nationality, Section 1158: Asylum, <http://uscode.house.gov>.
[5] Lutheran Immigration and Refugee Service, Refugee Resettlement, 2015, <http://lirs.org/refugee-resettlement/>.
[6] U.S. Citizenship and Immigration Services, In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM), 2015, <https://www.uscis.gov/CAM>.
[7] Julia Preston, David M. Herszenhorn, Michael D. Shear, U.N. to Help U.S. Screen Central American Migrants, The New York Times, Jan. 12, 2016, <www.nytimes.com/2016/01/13/us/politics/un-to-help-us-screen-central-american-migrants.html?ref=collection%2Ftimestopic%2FKerry%2C%20John&action=click&contentCollection=timestopics&region=stream&module=stream_unit&version=latest&contentPlacement=2&pgtype=collection&_r=1>.

SENATE HOMELAND SECURITY AND GOVERNMENT AFFAIRS COMMITTEE
JANUARY 28, 2016

STATEMENT BY THE YOUNG CENTER FOR IMMIGRANT CHILDREN'S RIGHTS AT THE UNIVERSITY OF CHICAGO

For more than twelve years, the Young Center for Immigrant Children's Rights has advocated for a fair and just system for unaccompanied children who arrive in the United States—specifically, that every decision-maker consider each child's best interests before rendering decisions regarding custody, release, family reunification, relief from removal and safe repatriation. The Young Center appreciates this opportunity to submit our views for the Senate Homeland Security and Government Affairs Committee hearing entitled: *The Department of Health and Human Service's Placement of Migrant Children: Vulnerabilities to Human Trafficking.*

Unaccompanied immigrant and refugee children are—first and foremost—children. Whenever possible they should be safely released to family or sponsors who are able to care for them while their immigration proceedings are pending. Expert research has concluded that detaining children is particularly problematic because detention can have long term and devastating effects on the physical, psychological and emotional development of a child.[1] In fact the 1997 settlement agreement in *Flores v. Reno* established a policy favoring release to family members in order to prevent prolonged detention and family separation. These children deserve the protection and care we would want extended to any child alone in a strange land.

The Young Center for Immigrant Children's Rights

Pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), the Young Center has been appointed by the Department of Health and Human Services (HHS) to serve as independent child advocate for hundreds of child trafficking victims and vulnerable unaccompanied children. The role of the Child Advocate is to advocate for the best interests of individual children on issues of custody, release, family reunification, legal relief and safe repatriation. Through our policy work, the Young Center stands for the creation of a dedicated juvenile immigrant justice system that ensures the safety and well-being of every child.

Bringing the "Best Interests of the Child" Standard to Unaccompanied Children's Cases

Unaccompanied children are vulnerable from the instant they are apprehended and detained and remain so while they are subject to removal. Child advocates—bilingual, often bicultural volunteers supervised by experienced attorneys and social workers—are appointed by the HHS Office of Refugee Resettlement (ORR) to advocate for the best interests of individual children. The Child Advocates serve children while they are in ORR custody, and continue to advocate for children's safety and well-being after they are released. Just as importantly, Child Advocates ensure that decision-makers have the information at hand necessary to take into consideration the

[1] HUMAN RIGHTS FIRST, FAMILY DETENTION IN BERKS COUNTY, PENNSYLVANIA (August 2015) *available at* http://www.humanrightsfirst.org/sites/default/files/HRF-Family-Det-Penn-rep-final.pdf.

child's best interests—their safety, expressed interests, family integrity, and developmental and liberty interests—when making decisions. The Young Center for Immigrant Children's Rights looks forward to working with members of the Committee to ensure that these vulnerable children are provided the necessary resources, support and protection to ensure their best interests while they are in federal custody and after their release.

Many of the unaccompanied immigrant children who have arrived in increasing numbers in the last few years are fleeing violence, in some cases criminal brutality at the hands of gangs or drug cartels, in other cases, horrific abuse at home.[2] These children are primarily fleeing from El Salvador, Guatemala, and Honduras (the triangle countries), where murder rates mirror those of conflict zones. They are not coming just to the United States—other Central American countries have witnessed dramatic increases in children and adults seeking refuge.[3] Human rights violations in El Salvador, Guatemala and Honduras are compounded by the inability of the governments to protect their own citizens, and children in particular.[4] Indeed, the United Nations High Commissioner for Refugees recently concluded that at least fifty-eight percent of unaccompanied children arriving from these countries were forcibly displaced and potentially in need of international protection.[5]

As a result of the violence in the triangle countries, children often arrive with a history of trauma. Our experience at the Young Center has been that children who have experienced trauma, and who are separated from their parent or traditional caregiver, often do not open up immediately. In many cases, children need to be with their parents, or family in order to feel safe enough to talk about why they fled their home country and why they came to the United States.

Concerns about Prolonged Detention

Under the Homeland Security Act of 2002, Congress transferred the authority for care and custody of unaccompanied children from the then-INS to the Department of Health and Human Services, the federal agency with expertise in child protection. Pursuant to the TVPRA of 2008, HHS is required to "promptly place" each child in its custody in the least restrictive setting that is in the best interest of the child." Further, according to the UN High Commissioner for Refugees, "children "should not in principle be detained at all." If detention is ever used, it must be a "measure of last resort" and for the "shortest appropriate period of time." In August 2015, U.S. federal district judge Dolly Gee ordered the release of women and children being held in immigration detention centers in Texas. In her order, the judge characterized the detention as a

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[2] U.N. HIGH COMM'R FOR REFUGEES, CHILDREN ON THE RUN: UNACCOMPANIED CHILDREN LEAVING CENTRAL AMERICA AND MEXICO AND THE NEED FOR INTERNATIONAL PROTECTION 32 (2014) [hereinafter CHILDREN ON THE RUN], http://www.unhcrwashington.org/sites/default/files/1_UAC_Children%20on%20the%20Run_Full%20Report.pdf. *See also* WOMEN'S REFUGEE COMMISSION, FORCED FROM HOME: THE LOST BOYS AND GIRLS OF CENTRAL AMERICA 1 (2012) (noting that unaccompanied minors are subject not only to violent gang attacks, but also face targeting by police who mistakenly assume that they are gang-affiliated; additionally girls in particular "face gender-based violence, as rape becomes increasingly a tool of control.").

[3] *Id.* at 15. In combination, Mexico, Panama, Nicaragua, Costa Rica and Belize have documented a 432% increase in the number of asylum applications submitted by people from Honduras, Guatemala and El Salvador.

[4] *See* U.S. CONFERENCE OF CATHOLIC BISHOPS, MISSION TO CENTRAL AMERICA: THE FLIGHT OF UNACCOMPANIED CHILDREN TO THE UNITED STATES 2 (2013), *available at* http://www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-FINAL-2.pdf (concluding that increases of migration are attributed to "generalized violence at the state and local levels and a corresponding breakdown of the rule of law").

[5] CHILDREN ON RUN, *supra* note 1, at 25.

violation of the 1997 court settlement, *Flores v. Reno*, which says that federal authorities must detain children in the least restrictive setting possible and should generally favor a policy of release. Both the *Flores* settlement and later the TVPRA reflected a decisive change in policy away from the prolonged detention of children to one favoring release to family members in order to prevent family separation. We urge caution in shifting away from this careful, child-protective model and recommend that Congress provide ORR with the resources necessary to increase its capacity to expand existing services— post-release follow-up services, legal representation and Child Advocates—for more children.

Importance of Screening Potential Sponsors

The Young Center supports releasing children from ORR custody to sponsors who have been thoroughly screened—and in particular, to parents, who are vested with certain rights and responsibilities, regardless of their immigration status. In our experience, ORR recognizes that there must be thorough screenings and background checks for family, and family friends who apply to sponsor children from ORR custody. ORR staff, the federally contracted care-providers and GDIT Case Coordinators work hard to ensure children are not released to unsafe conditions or situations that are otherwise not in their best interests. In our twelve years of serving children while in custody and after release, it is clear that ORR and its contractors care deeply for the children and only want the children to be safe and secure.

ORR conducts child abuse and neglect screenings (CA/N) and criminal background checks (FBI digital fingerprint check or FBI identification index). At present, the CA/N check system is unwieldly. It must be done in every state where a sponsor has lived, and in some states the clearance process takes an extraordinarily long time. Congress should appropriate funding so that ORR can develop a national child abuse and neglect database system so that all sponsors can be checked within a reasonable period of time. As is the practice, the ORR-contracted care-provider should thoroughly vet sponsors by verifying documents and interviewing sponsors. There should be a database to cross-check private attorneys who purport to represent multiple children. When such situations are identified, there should be an investigation of the sponsor or attorney to ensure children aren't being trafficked.

Even with these checks—CA/N, FBI criminal background checks, verification of documents, sponsor interviews—children may end up in precarious situations. A child placed with a fully vetted sponsor may choose to leave the home and end up in an abusive environment. A child might not know she is destined to work. Another child might have been instructed to keep secrets and, therefore, might not share critical information with the ORR-contracted provider. Therefore, as described in more detail in the next section, it is critical that there be multiple services available for children <u>after</u> they are released, including follow-up services, legal representation and Child Advocates. Each and every one of these contacts is another opportunity to identify a child in need of assistance, to intervene and to protect the child.

Importance of Services for Children after Release from ORR Custody, Including Follow-up Services, Legal Representation and Child Advocates

UAC remain vulnerable throughout the duration of their removal proceedings. They often need help finding an attorney, changing venue, figuring out court dates and enrolling in school. They need legal representation. And the most vulnerable children—those who may lack the capacity to make certain decisions, those who may abandon their desire for safety in a moment of frustration or in the hope of a more expedient resolution of their case—need a Child Advocate to ensure their safety and well-being.

The Young Center for Immigrant Children's Rights recommends that post-release follow-up services be offered to all children, legal representation be provided to every child regardless of whether they have been identified as eligible for relief, and Child Advocates be appointed for the most vulnerable children. This requires that Congress appropriate the funds so that ORR can expand these services for released children.

Post-Release Follow-Up Services. Follow-up service providers help both the child and sponsor in a variety of ways, assisting with school enrollment, locating and referring the child and sponsor to medical and therapeutic services, connecting the child to legal services, and helping the child navigate new family settings. Follow-up services can be instrumental in helping children successfully transition into their sponsor's homes and into the community. Most importantly, a post-release services provider who knows the child and sponsor, is best positioned to identify problems and ensure the child's safety. We recommend that follow-up services be offered to all children and sponsors upon the child's release. In addition, children and sponsors should be able to request follow-up services at any time after the child is released, for example, if a placement breaks down or is unsuccessful. We also recommend that ORR provide follow-up services when recommended by any stakeholder, including the ORR-contracted care-provider, GDIT Case Coordinator, legal services provider or Child Advocate.

Legal Representation. Children must be provided legal representation regardless of whether they have been identified as eligible for relief. At present, upon release from ORR custody, the majority of unaccompanied children appear in immigration court without representation. While the child is unrepresented, the government is represented by an attorney who has been trained specifically in the complexities of U.S. immigration law. A child who does not have an attorney may be fearful of going to court, walking into the courtroom, figuring out what to say. Children who are represented are more likely to appear in immigration court, allowing another opportunity for adults—attorneys, Child Advocates and immigration judges—to lay eyes on the child, to make sure they are safe.

Child Advocates. The most vulnerable children should be appointed a Child Advocate to advocate for the child's best interests on issues including placement and permanency. Federal law permits the appointment of independent child advocates—best interests guardians *ad litem*—for child trafficking victims and other vulnerable unaccompanied children.[6] Because ORR must consider the best interests of the child when making decisions regarding placement, and because

[6] 8 U.S.C. § 1232(c)(6)

every decision-maker should consider a child's best interests when making a decision regarding a child, Child Advocates play a critical role. For over a decade, immigration judges, immigration officers and other federal and state officials have relied upon reports received from independent Child Advocates in order to consider children's best interests in part of the decision-making process—whether that decision involves release to a sponsor or the grant of a discretionary immigration benefit. It is important that Congress continue to provide resources to ensure that the most vulnerable children have a Child Advocate, whether those children are identified as particularly vulnerable while still in custody or after their placement with a sponsor.

Conclusion

Protecting children who have been placed in federal custody but who seek release to family or other sponsors is a complex issue that requires a nuanced response. We appreciate the challenges that ORR faces balancing the need to place unaccompanied children in the least restrictive setting and ensuring that when children are released they are safe and secure, and have access to help if needed. We urge this Committee to work with ORR and children's advocates to make sure the agency has the resources needed to provide robust post release follow-up services, ensure legal representation for all children and appoint independent Child Advocates for vulnerable unaccompanied children. Thank you for providing the Young Center an opportunity to submit testimony for this hearing.

Statement of Andrea Cristina Mercado and Miriam Yeung, co-chairs of We Belong Together

Submitted to the United States Senate Permanent Subcommittee on Investigations of the Committee on Homeland Security and Government Affairs

Hearing on "The Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children from Human Trafficking"

January 28, 2016

Chairman Portman, Ranking Member McCaskill and members of the Subcommittee, we are Andrea Cristina Mercado and Miriam Yeung, co-chairs of We Belong Together. Thank you for the opportunity to submit this statement for inclusion in the record for today's hearing.

We Belong Together is a campaign co-anchored by the National Domestic Workers Alliance and the National Asian Pacific American Women's Forum to mobilize women in support of common-sense immigration policies that will keep families together and empower women. We Belong Together was launched on Mother's Day in 2010 and has exposed the dangerous impact of immigration enforcement on women and families, advocated for comprehensive immigration reform legislation and campaigned President Obama to take executive action to improve the security of communities under threat by the current immigration system.

We are outraged and saddened to learn about children released from the U.S. Department of Health and Human Services' Office of Refugee Resettlement (ORR) custody to dangerous conditions where they were then subjected to human trafficking. We Belong Together prioritizes the protection of children and believes that children must live free from violence and danger in order for peaceful and secure communities.

The cases that have recently emerged of children trafficked by their relatives and sponsors once released from ORR custody highlight the particular vulnerabilities unaccompanied minors face. Congress must ensure that adequate financial resources are allocated to allow ORR to provide a full range of social services and post-release assistance to children released from custody. In addition, these vulnerable children, all involved in immigration court proceedings must have access to due process and adequate legal representation. Congress should continue to reject any efforts to weaken protections for unaccompanied minors in the Trafficking Victims Protection Reauthorization Act (TVPRA) and instead seek to strengthen protection provisions.

Of particular concern to us, based on our investigations of harsh immigration policies, is how vulnerable children are impacted by the Administration's current enforcement practices and tactics. Specifically, programs that involve local and state police in immigration enforcement blur the lines between policing and deportation. The disastrous consequence is that members of immigrant communities, and communities of color, fear seeking law enforcement assistance when they are in danger and subject to crimes such as human trafficking. This fear is not isolated to seeking police assistance, communities also begin to fear seeking emergency medical assistance, school attendance, social services, etc.

In addition, the Administration's recent policy of conducting home raids on families has ignited the distrust of immigrant communities. Recently, the Prince George's County Public School district in Maryland wrote an open letter to the Department of Homeland Security describing the fear and anxiety of immigrant communities and detailing how children are scared to come to school for fear of immigration raids

In 2015, the National Domestic Workers Alliance's Beyond Survival campaign published a report *Organizing to End Human Trafficking of Domestic Workers,* calling for the decoupling of immigration enforcement and policing, and the end to other policies that instill fear in communities and prevent survivors of trafficking from seeking help. This is a key recommendation on how to address the needs of trafficking survivors, and in the context of unaccompanied minors, it is especially important to tackle the barriers that prevent victims from taking the first step toward safety and justice. Similar recommendations are echoed in We Belong Together's report, *The Heart of the Matter: Women, Children and the Way Forward on Immigration Policy.*

In order to ensure that vulnerable children are not paying the greatest price for the Administration's immigration enforcement tactics, we must move toward humane immigration policies that assure vulnerable populations that they can, indeed, come forward to seek the assistance of community organizations, law enforcement agencies and other service providers.

Senate Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
Questions for the Record

"Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children from Human Trafficking"

HHS Witnesses: Mark Greenberg and Bob Carey
January 28, 2016

Effective Date of Responses: April 29, 2016

The Honorable Claire McCaskill

1. **During the hearing, Sen. McCaskill asked Mr. Greenberg and Mr. Carey to provide, by February 4, 2016, a formal legal analysis supporting HHS's "long-standing policy" that ORR has no responsibility for unaccompanied alien children (UAC) after their placement with sponsors. On February 22, 2016, HHS provided a response to Sen. McCaskill's request, which argued that the Trafficking Victims Protection Act prevented HHS from asserting "continuing legal custody post-release" of a child. Please answer the following questions:**

    a. **HHS's February 22, 2016, letter stated that ORR operates the Unaccompanied Children Program "consistent with the *Flores* Settlement." Under paragraph 16 of the *Flores* Settlement, however, ORR has the authority to "terminate the custody arrangements [that ORR enters into with UAC sponsors] and assume legal custody of any minor whose custodian fails to comply" with such a custody agreement. Please explain why paragraph 16 would not allow ORR to assume post-release custody of a UAC in the event a sponsor fails to fulfill his or her obligations.**

    b. **HHS has explained to the Subcommittee that it has never invoked the authority provided in paragraph 16 and is unsure whether it or the Department of Homeland Security would be the proper agency to do so. Please state which agency, in the view of HHS, may properly invoke the authority in paragraph 16.**

    c. **If HHS has no view on which federal agency has this authority, please explain why HHS has failed to comply with the 2008 HHS Inspector General recommendation that DHS and HHS enter into a memorandum of understanding delineating the responsibilities of both agencies for ensuring the safety of UACs after placement.**

d. **HHS's February 22, 2016, letter argued that because "Congress specifically required follow-up services in those limited cases where a home study was conducted, and...authorized follow-up services for certain other children with mental health or other needs," Congress did not intend to grant ORR the general ability to retain or assume post-release custody of UACs. Please explain how 8 U.S.C. § 1232(c)(3)(B), which grants ORR the ability to conduct follow-up services in the above-mentioned cases, prohibits ORR from assuming post-release custody of UACs in other cases.**
e. **Please explain why, if 8 U.S.C. § 1232(c)(3)(B) requires follow-up services in certain cases, HHS has allowed sponsors to hold a veto over these services or bar care providers from communicating with UACs.**
f. **Please describe any specific legal impediment to ORR conducting a home study when a UAC sponsored by a Category 3 sponsor fails to appear at an immigration hearing.**

The Department of Health and Human Services (HHS) relies on the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), to provide the contours of the Unaccompanied Children Program, which it operates consistent with the *Flores* Settlement. Consistent with these statutes, unaccompanied children are referred to the Office of Refugee Resettlement (ORR) by other federal agencies, usually the Department of Homeland Security (DHS). ORR will accept any unaccompanied child referred to its care by another federal agency, including children who have previously been in ORR's care.

A memorandum of agreement (MOA) between DHS and HHS regarding unaccompanied children was signed on February 22, 2016. The MOA outlines the following shared goals: ensure the safe and expedited transfer and placement of unaccompanied children from DHS to HHS custody; maximize efficiency in the allocation and expenditure of the agencies' respective program costs; ensure information is transmitted between the Parties to facilitate appropriate placement decisions family reunification where possible and for HHS to promptly place the child in the least restrictive setting that is in the child's best interest until the child is released to an appropriate sponsor; continue the statutorily-required consultation between departments with respect to unaccompanied children placement determinations; protect unaccompanied children in the custody of the United States or released to sponsors from mistreatment, exploitation, and trafficking; and promote the effective immigration processing and safe repatriation and reintegration of unaccompanied children. The MOA is intended to provide a framework for interagency coordination on the responsibilities of the Parties in coordinating and establishing procedures, shared goals, and interagency cooperation with respect to unaccompanied children. ORR continues to collaborate with all of its interagency partners to improve the efficiency and effectiveness of its operations. In operating the Unaccompanied Children Program, ORR works closely with DHS on a daily basis to ensure effective coordination.

Before placing a child with a sponsor, HHS goes through a multi-step assessment process with the goal of ensuring that a sponsorship will be safe and appropriate. Consistent with the TVPRA, ORR conducts home studies "before placing a child with an individual" in certain

circumstances.[1] A home study is an in-depth investigation of the potential sponsor's ability to ensure the child's safety and well-being. The process is conducted prior to a child being released to a sponsor and includes fingerprint background checks of the sponsor and adult household members, home visit(s), and an in-person sponsor interview and possibly interviews with other household members. Though home studies are solely conducted prior to the release of a child to a sponsor, ORR does have authority to provide follow-up services, which may include in-person post release services and case management, as outlined below.

Although ORR's custody ends upon release to a sponsor, its commitment to providing resources, connecting children to services, and protecting vulnerable children from abuse or exploitation does not end. ORR has authorities that permit it to provide a range of services and resources post-release, and it makes use of that authorization to establish policies and procedures that, among other things, are intended to protect those children that may be vulnerable to abuse or exploitation after they are released from our care.

ORR follows up with children and their sponsors 30 days after release and provides every child with a card with an ORR Help Line phone number to call with safety-related concerns. ORR also provides post-release services to many children and sponsors. Post-release services are intended to help link the child and/or the sponsor with community services or other on-going assistance. Post-release service providers coordinate referrals to supportive services in the community where the unaccompanied child resides and provide other child welfare services, as needed. ORR has expanded the categories of children who are automatically eligible to receive post-release services over the last year. Currently, ORR offers post-release services to children who receive a home study; children released to a non-relative or distantly related sponsor; children whose placement has been disrupted or is at risk of disruption within 180 days of release where the child or sponsor has called the Help Line; and, on a case-by-case basis where it is determined the child has mental health or other needs that could benefit from ongoing assistance from a social welfare agency. Post-release services can occur until the minor attains 18 years of age. ORR is mindful of the continued need to closely examine its policies and procedures, including in the area of post-release services. ORR has reviewed the Subcommittee's report in detail and will incorporate the report findings into its ongoing review as it works to identify and implement additional program enhancements.

Since receiving the Subcommittee's report, ORR has made a number of program enhancements. First, two Senior Advisors for Child Well-Being and Safety have been brought on board, augmenting existing child welfare expertise and supporting leadership's development of additional program improvements related to child safety post-release. ORR has made improvements to the home study policy, including the establishment of a new discretionary home study component, which will allow ORR care providers, with agreement from the Case Coordinator, to recommend home studies to ORR in instances where a home study will provide additional information required to determine that the sponsor is able to care for the health, safety and well-being of the child but is not required by the Trafficking Victims Protection Reauthorization Act or existing ORR policy. ORR has also formalized the requirement that home studies must be conducted for children who are 12 years and under before releasing a child to a non-relative sponsor, which had previously been a pilot project. ORR has also begun working

[1] 8 U.S.C. 1232(c)(3)(B).

with subject matter experts across the Administration to identify and incorporate enhanced interview and document verification techniques into the sponsor assessment process. ORR has required new steps to verify the sponsor's address and proof that the sponsor resides at the address. ORR has also disseminated clear guidance to care providers on how to search in the unaccompanied children database to determine if a potential sponsor has previously served as a sponsor for other unaccompanied children.

Participation in post-release services is a voluntary choice by the sponsor and unaccompanied child; however, a sponsor declining post-release services prior to a final placement decision would be a factor ORR would consider in determining whether the child's basic needs would be met by that sponsor. Based on reporting from ORR's post-release service providers, the vast majority of sponsors accept post-release services when they are offered; very few decline.

Through the provision of these post-release services and resources, which would include information gathered at the time a sponsor declined post-release services, if any of ORR's provider grantees or staff have reason to believe that a child is unsafe, they comply with mandatory reporting laws, state licensing requirements, and federal laws and regulations for reporting to local child protective agencies and/or law enforcement.

2. **Please indicate whether HHS has produced ORR case files related to the Marion, Ohio, trafficking incident pursuant to a federal subpoena. If so, please identify the documents produced, the entity to which they have been produced, and the date of production.**

As with any law enforcement investigation, HHS has cooperated fully with federal law enforcement authorities in connection with the Marion, Ohio criminal matters; however, HHS understands that certain matters are ongoing, and HHS is not in a position to describe the timing or content of the information provided to law enforcement.

3. **Please comment on the viability and expense of implementing the following reforms to the Unaccompanied Children Program:**
    a. **instituting mandatory home studies for:**
        1. **all placements with Category 3 sponsors;**
        2. **all placements with sponsors who have committed a violent offense or who have been investigated by Child Protective Services;**
        3. **all placements with sponsors who have a history of substance abuse or mental health issues;**
        4. **all placements of children with past or present suicidal ideation;**
        5. **all placements of children who have experienced rape, sexual assault, or other significant trauma; and**
        6. **all placements of children under the age of five;**
    b. **granting care providers the authority to require home studies in the event they identify other concerns not listed above;**
    c. **providing post-release services for all children upon reunification with a sponsor;**

d. **requiring a FBI fingerprint check for any category of sponsor before placement, as well as FBI fingerprint checks for all household members when a child is not reunifying with a biological parent; and**
e. **providing sponsors with:**
    1. **a sponsor handbook containing information necessary to ensure a child's safety and well-being; and**
    2. **an in-person orientation regarding their obligations.**

Answer for 3a and 3b:
ORR recognizes that home studies, as part of a multi-step sponsor assessment and screening process, can be a valuable tool, which is why over the last year ORR has expanded the categories of children who receive home studies beyond those statutorily required under the TVPRA. In addition to mandatory home study categories, ORR conducts home studies for children who are being released to a non-relative sponsor who has previously sponsored or proposes to sponsor more than one child to whom the sponsor is not related; and for all children ages 12 and under being released to non-relative or distantly related sponsors through a pilot program. As of March 15, 2016, ORR allows for discretionary home studies, when a home study is not already required but would provide additional information required to determine that the sponsor is able to care for the health, safety and well-being of the child. Discretionary home studies may be recommended by the case manager and case coordinator when they agree that the home study will provide additional information required to determine that the sponsor is able to care for the health, safety and well-being of the child. The discretionary home study must be approved by an ORR Federal Field Specialist Supervisor.

Because the numbers and demographics of children referred to ORR's care in any given year are unpredictable, it is difficult to estimate the costs that would be associated with expanding home studies to particular categories of children. In FY 2016 the average cost of a home study is approximately $1,949. Additionally, the process of conducting a home study could add approximately two weeks onto a child's length of stay in an ORR facility before he or she can be released to a sponsor. Assuming a child is cared for in a standard shelter, which costs approximately $223 a day in FY 2016, each home study would add an additional shelter cost of approximately $3,122 per child.

Answer for 3c:
ORR provides post-release services to children who receive a home study; children released to an unrelated or distantly related sponsor; children whose placement has been disrupted or is at risk of disruption within 180 days of release and the child or sponsor has contacted the ORR Help Line; and on a case-by-case basis in other cases involving children with mental health or other needs that could benefit from ongoing assistance from a social welfare agency. ORR collects information on children who receive post-release services on a monthly basis from post-release service providers. In FY15, 8,618 unaccompanied children received post-release services.

The numbers and demographics of children referred to ORR's care in any given year are unpredictable. Further, under ORR's current policy, the length of time a child would receive post-release services can vary between six months and many years. For instance, a child released with post-release services after a TVPRA mandatory home study would be eligible for services until they turn eighteen (e.g. a 12-year-old would receive post-release services for six

years), or until the final disposition of the child's immigration case. Therefore, it is difficult to estimate the costs that would be associated with expanding the provision of post-release services to all children released to a sponsor. In FY 2016, the average cost of post release services is $2,806 per child over the course of a year. ORR is continually evaluating its policies and procedures to determine whether additional steps can be taken to further protect the safety and well-being of these children, including by re-examining its policies around post-release services.

Answer for 3d:
ORR is committed to continuous improvement and over the last year has strengthened the process for screening of potential sponsors and other adults who are likely to come into contact with a child after release.

Because the numbers and demographics of children referred to ORR's care in any given year are unpredictable, it is difficult to estimate the precise costs that would be associated with conducting fingerprint background checks of all sponsors, as well as all household members when a child is not released to a biological parent. The direct costs to ORR of FBI fingerprint background checks is $21.50 per sponsor or household member. There are also indirect costs associated with fingerprint background checks, such as salaries, equipment, and supplies for locations in which background checks are conducted. For FY 2016, our interagency agreement for all background checks performed by the HHS Office of Security and Strategic Information (OSSI) (including fingerprint background checks, child abuse and neglect C/AN checks, immigration checks, and others) was for $5.3 million. In addition, conducting fingerprint background checks could lengthen a child's stay in ORR custody and, thus, increase associated shelter costs. ORR funds a network of digital fingerprint providers at locations that are not affiliated with law enforcement entities. Sponsors may also go to any local police department for paper fingerprinting services in the event a digital fingerprint provider is not conveniently located near a sponsor's location. ORR care providers ask potential sponsors and other individuals receiving fingerprint background checks to submit their fingerprints and associated paperwork within three business days; however, the length of time can vary. The average amount of time it takes to receive results from background checks is approximately five days. Thus, based on the average cost of $223 per day for a standard shelter bed, fingerprint background checks could also add, at a minimum, an additional $1,115 onto the cost of an individual unaccompanied child's stay.

Answer for 3e:

Throughout the release process, care providers work with the child and sponsor so that they can plan for the child's needs after he or she is released to a sponsor. Each sponsor is provided a Sponsor Handbook, which outlines the responsibilities for obtaining legal guardianship, enrolling the child in school, and keeping the child safe from child abuse, neglect, trafficking and exploitation. The Handbook, which is available in both English and Spanish, also reiterates the importance of continuing with immigration proceedings and includes links to EOIR's website and forms. The case manager will review this information with the sponsor over the phone prior to release, as well as discuss any additional needs that may be particular to the child. Requiring in-person orientation for sponsors is not feasible logistically as sponsors live in many communities across all 50 states and may not be geographically close to the shelter in which the child is being cared for by ORR.

After a child is released to a sponsor, care providers must conduct a Safety and Well Being Follow Up Call with an unaccompanied child and his or her sponsor 30 days after the release date. The purpose of the follow up call is to determine whether the child is still residing with the sponsor, is enrolled in or attending school, is aware of upcoming court dates, and is safe. If the follow up call indicates that the sponsor and/or child would benefit from additional support or services, the care provider refers the sponsor or child to the ORR Help Line.

The ORR Help Line provides unaccompanied children a resource for safety-related concerns, as well as provides sponsors a resource for assistance with family problems and child behavior issues, referrals to community providers, and assistance finding legal support and enrolling unaccompanied children in school. Under a pilot project that began in 2015, children or sponsors who contact the Help Line can also be referred to post release services, if their placement has been disrupted or is at risk of disruption within 180 days of release. Every child released to a sponsor is given a card with the call center's phone number.

The Honorable Rob Portman

4. **Under federal law, "the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services." 8 U.S.C. § 1232(b)(1). Notwithstanding the clarity of that provision, you testified that it is the Department's long-standing interpretation of the law that HHS is not responsible for an unaccompanied alien child after he or she is placed with a sponsor. In the Department's view, which Federal agency *is* responsible for unaccompanied alien children living with sponsors in the United States?**

HHS's longstanding view across administrations is that, under the authorities governing the Unaccompanied Children Program, once a child is released to a sponsor, ORR's legal and physical custody terminates. But the fact that ORR's custody ends upon release does not mean that its commitment to providing resources, connecting children to services, and protecting vulnerable children from abuse or exploitation ends. HHS has authorities that permit it to provide a range of services and resources post-release, and it makes use of that authorization to establish policies and procedures that, among other things, are intended to protect those children that may be vulnerable to abuse or exploitation after they are released from our care. Through these services and resources, if any of ORR's provider grantees or staff have reason to believe that a child is unsafe, they comply with mandatory reporting laws, state licensing requirements, and federal laws and regulations for reporting to local child protective agencies and/or law enforcement.

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