

**AnnaMarie Bena Testimony For
U.S. Commission on Civil Rights
Briefing on the State of Civil Rights at Immigration Detention Facilities
January 30, 2015**

I'd like to thank the U.S. Commission on Civil Rights for inviting the Office of Refugee Resettlement (ORR) to discuss its responsibilities in providing care and services for unaccompanied children. I very much appreciate the opportunity to provide information to you about ORR's Unaccompanied Children's Program and the services we provide.

Today, I would like to share with you general information on the children that come into ORR care and custody as well as the standards of care and services provided to them. I will also discuss ORR's recently published interim final rule covering standards to prevent, detect, and respond to sexual abuse and sexual harassment involving unaccompanied children.

General Information

Unaccompanied children, or children who enter the United States unaccompanied by a parent or legal guardian, come into ORR's care when they are referred to us by another federal agency, which is most often the Department of Homeland Security (DHS). Once DHS has identified a minor as an unaccompanied child, it has 72 hours to transfer the child to ORR custody by transporting the child to one of ORR's care provider facilities. ORR currently has approximately 124 care provider facilities across 15 states.

In fiscal year 2014, ORR placed 57,496 children in its care provider facilities. The vast majority of these children come from Honduras, Guatemala, and El Salvador. Children from Mexico

accounted for less than two percent of the total, and all other countries combined totaled less than three percent of all referrals from federal agencies. The demographic breakdown has changed slightly from previous years, with an increase in the number of female unaccompanied children and the number of children under 14 years of age. In previous years, approximately 25% of the population was female, while in fiscal year 2014, females made up approximately one-third of the population. In fiscal year 2014, approximately 27% of the population was under 14 years of age while in previous years the percentage had ranged from 17-24%.

Standards of Care

ORR has a network of care provider facilities across the United States that provide various levels of care, including shelters, group homes, therapeutic providers, residential treatment centers, staff secure providers, transitional foster care, and long term foster care. A very small number of children are placed in secure facilities if they have committed dangerous crimes or pose a danger to themselves or others. The vast majority of unaccompanied children, however, are housed in shelter facilities. All permanent ORR care providers are state licensed facilities that are licensed to provide residential services to minors. This means that all ORR care provider facilities are overseen by both state licensing authorities and ORR. State licensing requirements cover everything from reporting allegations of abuse, the provision of nutritious meals and snacks, the number of square feet that must be provided for each child in a bedroom, the physical condition of the building, the services provided to children and much more.

When a child is referred to ORR from DHS, ORR's intake specialists must make a placement determination for each child within ORR's network of care providers that is in the least

restrictive setting and in the best interest of the child. ORR will identify any special needs a child may have and determine the best and most appropriate placement for the child. For example, ORR uses transitional foster care to house children under the age of 12 or teens who are pregnant or parenting so they may receive specialized care and services. Transitional foster care refers to a type of placement where children sleep in individual foster care homes or small group homes at night but receive all services during the day at a care provider facility. If during the child's assessment process, special needs arise that the current provider is unable to provide for, ORR will transfer the child to another facility that is able to provide for the child's particular needs.

Services for Children

When the Unaccompanied Children's Program was transferred from the former U.S. Immigration and Naturalization Service to the Department of Health and Human Services, ORR became bound to the terms of the Flores v. Reno Settlement Agreement, which sets forth minimum standards and services that must be provided to all unaccompanied children in ORR care and custody.

ORR is tasked with providing care and custody for unaccompanied children until a safe and suitable sponsor is found to provide care and physical custody of the child while the child awaits his or her immigration proceeding.

While the child is in ORR care and custody, he or she will receive an array of services in accordance with the Flores Settlement Agreement and state licensing standards. When a child is

admitted to ORR care and custody, trained care providers conduct assessments of the child that include screenings, interviews with the child, interviews with the child's family, and interviews of any potential sponsors. This assessment is used as a first round of screening to determine whether the child has any immediate needs and whether the child may be a victim of abuse, of a crime, or of trafficking. If a medical or mental health concern is detected during this screening, additional screenings are completed by skilled clinical staff, case managers with clinical experience, or medical professionals. These screenings also determine whether the child requires specialized services, a home study prior to his or her release to a sponsor (if a sponsor is available) and whether the child is a potential victim of trafficking and therefore eligible for additional services and legal assistance available to foreign trafficking victims in the United States.

While children are in our care, each child receives: an initial medical examination and medical, dental, and mental health services; educational services; daily recreation activities; "Know Your Rights" presentations, legal screenings, and for some, legal services; access to religious services; regular telephone calls to family members; case management services which include services to identify a parent, relative, or other appropriate sponsor; individual service planning assistance; and weekly individual and group counseling services.

We seek to place children awaiting immigration removal proceedings with a parent, relative, or other appropriate sponsor. Most children have a parent or other relatives already living in the U.S. ORR screens and assesses potential sponsors to ensure the sponsor is safe and suitable for the child. Screenings include background checks, interviews with sponsors and a review of the

sponsor's ability to care for the child's well-being. When assessing the sponsor, ORR may require the completion of a home study to ensure the sponsor is safe and can appropriately provide for the child upon release. ORR may also provide post-release services to children and sponsors who may need assistance once the child is released. The purpose of post-release services is to help link the child and the sponsor with community services or other on-going assistance.

In fiscal year 2014, approximately 95 percent of children were released to a sponsor. Of the children not released to a sponsor, some are remanded to the Department of Homeland Security's custody once they reach 18 years of age. Others become eligible for a legal immigration status such as Special Immigrant Juvenile Status, asylum, T visas, or U visas. Some children may return voluntarily to their country of origin. Some are removed to their country of origin.

Publication of the Interim Final Rule

Finally, I would like to briefly discuss ORR's interim final rule that covers standards to prevent, detect, and respond to sexual abuse and sexual harassment involving unaccompanied children. ORR published the IFR on December 24, 2014, and will accept public comments for 60 days. As an IFR, the rule became effective upon publication, and ORR care provider facilities will have six months to implement the rule and come into compliance. This rule includes a comprehensive set of standards organized into eleven categories that include topics such as prevention planning, training and education, reporting, medical and mental health care, and data collection. The standards build upon and enhance existing state and local laws, regulations, and licensing standards. The rule applies to all ORR facilities excluding secure care providers and

individual foster care homes. All ORR secure care providers are directed to follow the Department of Justice's PREA regulation. Individual foster care homes are subject to ORR's policies and procedures and state licensing standards, but are not subject to the IFR because it is a community-based placement. ORR care provider facilities are already complying with many portions of the rule because of state licensing requirements, but the rule will ensure that care provider facilities are taking all necessary and required steps in a formalized process to fully ensure the prevention, detection, and proper response to any allegations or incidents of sexual abuse and sexual harassment.

Thank you.