

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JENNY LISETTE FLORES, et al, Plaintiffs

v.

JANET RENO, Attorney General of the United States, et al., Defendants

Case No. CV 85-4544-RJK(Px)

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 the 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. 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 a 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.

24A. 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 providers compiled pursuant to INS regulation (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 minor 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 courtesy 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 defendants have 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 \$_____, 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 from the date of final court approval of this Agreement or three years after the court determines that the INS is in substantial compliance with the Agreement, except the following: the INS shall continue to house the general population of minors in INS custody in facilities that are state-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.

EXHIBIT 1
Minimum Standards for Licensed Programs

A. Licensed programs shall comply with all applicable state child welfare laws and regulations and all state and local building, fire, health and safety codes and shall provide or arrange for the following services for each minor in its care:

1. Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing, and personal grooming items.
2. Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screening for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the minor was recently examined at another facility; appropriate immunizations in accordance with the U.S. Public Health Service (PHS), Center for Disease Control; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.
3. An individualized needs assessment which shall include: (a) various initial intake forms; (b) essential data relating to the identification and history of the minor and family; (c) identification of the minors' special needs including any specific problem(s) which appear to require immediate intervention; (d) an educational assessment and plan; (e) an assessment of family relationships and interaction with adults, peers and authority figures; (f) a statement of religious preference and practice; (g) an assessment of the minor's personal goals, strengths and weaknesses; and (h) identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in family reunification.
4. Educational services appropriate to the minor's level of development, and communication skills in a structured classroom setting, Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training (ELT). The educational program shall include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program shall provide minors with

appropriate reading materials in languages other than English for use during the minor's leisure time.

5. Activities according to a recreation and leisure time plan which shall include daily outdoor activity, weather permitting, at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (this should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.

6. At least one (1) individual counseling session per week conducted by trained social work staff with the specific objectives of reviewing the minor's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each minor.

7. Group counseling sessions at least twice a week. This is usually an informal process and takes place with all the minors present. It is a time when new minors are given the opportunity to get acquainted with the staff, other children, and the rules of the program. It is an open forum where everyone gets a chance to speak. Daily program management is discussed and decisions are made about recreational activities, etc. It is a time for staff and minors to discuss whatever is on their minds and to resolve problems.

8. Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

9. Upon admission, a comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.

10. Whenever possible, access to religious services of the minor's choice.

11. Visitation and contact with family members (regardless of their immigration status) which is structured to encourage such visitation. The staff shall respect the minor's privacy while reasonably preventing the unauthorized release of the minor.

12. A reasonable right to privacy, which shall include the right to: (a) wear his or her own clothes, when available; (b) retain a private space in the residential facility, group or foster home for the storage of personal belongings; (c) talk privately on the phone, as permitted by the house rules and regulations; (d) visit privately with guests, as permitted by the house rules and regulations; and (e) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.

13. Family reunification services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the minor.

14. Legal services information regarding the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a deportation or exclusion hearing before an immigration judge, the right to apply for political asylum or to request voluntary departure in lieu of deportation.

B. Service delivery is to be accomplished in a manner which is sensitive to the age, culture, native language and the complex needs of each minor.

C. Program rules and discipline standards shall be formulated with consideration for the range of ages and maturity in the program and shall be culturally sensitive to the needs of alien minors. Minors shall not be subjected to corporal punishment, humiliation, mental abuse, or punitive interference with the daily functions of living, such as eating or sleeping. Any sanctions employed shall not: (1) adversely affect either a minor's health, or physical or psychological well-being; or (2) deny minors regular meals, sufficient sleep, exercise, medical care, correspondence privileges, or legal assistance.

D. A comprehensive and realistic individual plan for the care of each minor must be developed in accordance with the minor's needs as determined by the individualized need assessment. Individual plans shall be implemented and closely coordinated through an operative case management system.

E. Programs shall develop, maintain and safeguard individual client case records. Agencies and organizations are required to develop a system of accountability which preserves the confidentiality of client information and protects the records from unauthorized use or disclosure.

F. Programs shall maintain adequate records and make regular reports as required by the INS that permit the INS to monitor and enforce this order and other requirements and standards as the INS may determine are in the best interests of the minors.

Exhibit 2
Instructions to Service Officers re:
Processing, Treatment, and Placement of Minors

These instructions are to advise Service officers of INS policy regarding the way in which minors in INS custody are processed, housed and released. These instructions are applicable nationwide and supersede all prior inconsistent instructions regarding minors.

(a) Minors. A minor is a person under the age of eighteen years. However, individuals who have been "emancipated" by a state court or convicted and incarcerated for a criminal offense as an adult are not considered minors. Such individuals must be treated as adults for all purposes, including confinement and release on bond.

Similarly, if a reasonable person would conclude that an individual is an adult despite his claims to be a minor, the INS shall treat such person as an adult for all purposes, including confinement and release on bond or recognizance. The INS may require such an individual 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 for all purposes.

(b) General policy. The INS treats and shall continued to treat minors with dignity, respect and special concern for their particular vulnerability. INS policy is to 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 the need to ensure the minor's timely appearance and to protect the minor's well-being and that of others. INS officers are not required to release a minor to any person or agency whom they have 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.

(c) Processing. The INS will expeditiously process minors and will provide them a Form I-770 notice of rights, including the right to a bond redetermination hearing, if applicable.

Following arrest, the INS will hold minors in a facility that is safe and sanitary and that is consistent with the INS's concern for the particular vulnerability of minors. Such facilities will have 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 separate unaccompanied minors from unrelated adults whenever possible. Where such segregation is not immediately possible, an unaccompanied minor will not be detained with an unrelated adult for more than 24 hours.

If the minor cannot be immediately released, and no licensed program (described below) is available to care for him, he should be placed in an INS or INS-contract facility that has separate accommodations for minors, or in a State or county juvenile detention facility that separates minors in INS custody from delinquent offenders. The INS will make every effort to ensure the safety and well-being of juveniles placed in these facilities.

(d) Release. The INS will release minors from its custody without unnecessary delay, unless detention of a juvenile is required to secure her timely appearance or to ensure the minor's safety or that of others.

Minors shall be released in the following order of preference, to:

(i) a parent;

(ii) a legal guardian;

(iii) an adult relative (brother, sister, aunt, uncle, or grandparent);

(iv) 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 documentation that establishes to the satisfaction of the INS, in its discretion, that the individual designating the individual or entity as the minor's custodian is in fact the minor's parent or guardian;

(v) a state-licensed juvenile shelter, group home, or foster home willing to accept legal custody; or

(vi) 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.

(e) Certification of custodian. Before a minor is released, the custodian must execute an Affidavit of Support (Form I-134) and an agreement to:

(i) provide for the minor's physical, mental, and financial well-being;

(ii) ensure the minor's presence at all future proceedings before the INS and the immigration court;

(iii) notify the INS of any change of address within five (5) days following a move;

(iv) if the custodian is not a parent or legal guardian, not transfer custody of the minor to another party without the prior written permission of the District Director, except in the event of an emergency;

(v) 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

(vi) if dependency proceedings involving the minor are initiated, notify the INS of the initiation of a such proceedings and the dependency court of any deportation proceedings pending against the minor.

In an emergency, a custodian may transfer temporary physical custody of a minor prior to securing permission from the INS, but must notify the INS of the transfer as soon as is practicable, and in all cases within 72 hours. Examples of an "emergency" include the serious illness of the custodian, destruction of the home, etc. In all cases where the custodian seeks written permission for a transfer, the District Director shall promptly respond to the request.

The INS may terminate the custody arrangements and assume legal custody of any minor whose custodian fails to comply with the agreement. However, custody arrangements will not be terminated for minor violations of the custodian's obligation to notify the INS of any change of address within five days following a move.

(f) Suitability assessment. An INS officer may require a positive suitability assessment prior to releasing a minor to any individual or program. A suitability assessment may include an investigation of the living conditions in which the minor is to 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. The assessment will also take into consideration the wishes and concerns of the minor.

(g) Family reunification. Upon taking a minor into custody, the INS, or the licensed program in which the minor is placed, will promptly attempt to reunite the minor with his or her family to permit the release of the minor under Paragraph (d) above. Such efforts at family reunification will continue so long as the minor is in INS or licensed program custody and will be recorded by the INS or the licensed program in which the minor is placed.

(h) Placement in licensed programs. A "licensed program" is any program, agency or organization 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. Exhibit 1 of the Flores v. Reno Settlement Agreement describes the standards required of licensed programs. Juveniles who remain in INS custody must be placed in a licensed program within three days if the minor was apprehended in an INS district in which a licensed program is located and has space available, or within five days in all other cases, except when:

(i) the minor is an escape risk or delinquent, as defined in Paragraph (l) below;

(ii) a court decree or court-approved settlement requires otherwise;

(iii) an emergency or influx of minors into the United States prevents compliance, in which case all minors should be placed in licensed programs as expeditiously as possible; or

(iv) where the minor must be transported from remote areas for processing or speaks an unusual language such that a special interpreter is required to process the minor, in which case the minor must be placed in a licensed program within five business days.

(i) Secure and supervised detention. A minor may be held in or transferred to a State or county juvenile detention facility or in a secure INS facility or INS-contracted facility having separate accommodations for minors, whenever the District Director or Chief Patrol Agent determines that the minor -

(i) 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, unless the minor's offense is

(a) an isolated offense not within a pattern of criminal activity which did not involve violence against a person or the use or carrying of a weapon (Examples: breaking and entering, vandalism, DUI, etc.); or

(b) a petty offense, which is not considered grounds for stricter means of detention in any case (Examples: shoplifting, joy riding, disturbing the peace, etc.);

(ii) 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;

(iii) 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.);

(iv) is an escape-risk; or

(v) 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.

"Chargeable" means that the INS has probable cause to believe that the individual has committed a specified offense.

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.

The INS will not place a minor in a State or county juvenile detention facility, secure INS detention facility, or secure INS-contracted facility if less restrictive alternatives are available and appropriate in the circumstances, such as transfer to a medium security facility that provides intensive staff supervision and counseling services or transfer to another licensed program. All determinations to place a minor in a secure facility must be reviewed and approved by the regional Juvenile Coordinator.

(j) Notice of right to bond redetermination and judicial review of placement. A minor in deportation proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case in which he either affirmatively requests, or fails to request or refuse, such a hearing on the Notice of Custody Determination. A juvenile who is not released or placed in a licensed placement shall be provided (1) a written explanation of the right of judicial review in the form attached, and (2) the list of free legal services providers compiled pursuant to 8 C.F.R. § 292a.

(k) Transportation and transfer. Unaccompanied minors should not be transported in vehicles with detained adults except when being transported from the place of arrest or apprehension to an INS office or where separate transportation would be otherwise impractical, in which case minors shall be separated from adults. INS officers shall take all necessary precautions for the protection of minors during transportation with adults.

When a minor is to be released, the INS will assist him or her in making transportation arrangements to the INS office nearest the location of the person or facility to whom a minor is to be released. The Service may, in its discretion, provide transportation to such minors.

Whenever a minor is transferred from one placement to another, she shall be transferred with all of 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 must be shipped to the minor in a timely manner. No minor who is represented by counsel should be transferred without advance notice to 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 notice, in which cases notice must be provided to counsel within 24 hours following transfer.

(l) Periodic reporting. All INS district offices and Border Patrol stations must report to the Juvenile Coordinator statistical information on minors placed in proceedings who remain in INS custody for longer than 72 hours. Information will include: (a) biographical information, including the minor's name, date of birth, and country of birth, (b) date placed in INS custody, (c) each date placed, removed or released, (d) to whom and where placed, transferred, removed or released, (e) immigration status, and (f) hearing dates. The Juvenile Coordinator must also be informed of the reasons for placing a minor in a medium security facility or detention facility as described in paragraph (i).

(m) Attorney-client visits by Plaintiffs' counsel. The INS will permit lawyers for the *Reno v. Flores* plaintiff class to visit minors even though they may not have the names of minors who are housed at a particular location. A list of Plaintiffs' counsel entitled to make attorney-client visits with minors is available from the district Juvenile Coordinator. Attorney-client visits may also be conducted by any staff attorney employed by the Center for Human Rights & Constitutional Law of Los Angeles, California, or the National Center for Youth Law of San Francisco, California, provided that such attorney presents credentials establishing his or her employment prior to any visit.

Visits must 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 must 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 the notice of appearance to representation of the minor in connection with his placement or treatment during INS custody. 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.

A minor may refuse to meet with Plaintiffs' counsel. Further, the minor's parent or legal guardian may deny Plaintiffs' counsel permission to meet with the minor.

(n) Visits to licensed facilities. In addition to the attorney-client visits, Plaintiffs' counsel may request access to a licensed program's facility (described in paragraph (h)) or to a medium-security facility or detention facility (described in paragraph (i)) in which a minor has been placed. The district juvenile coordinator will convey the request to the facility's staff and coordinate the visit. The rules and procedures to be followed in connection with such visits are set out in Exhibit 4 of the *Flores v. Reno* Settlement Agreement,, unless Plaintiffs' counsel and the facility's staff agree otherwise. In all visits to any facility, Plaintiffs' counsel and their associated experts must treat minors and staff with courtesy and dignity and must not disrupt the normal functioning of the facility.

EXHIBIT 3 Contingency Plan

In the event of an emergency or influx that prevents the prompt placement of minors in licensed programs with which the Community Relations Service has contracted, INS policy is to make all reasonable efforts to place minors in licensed programs licensed by an appropriate state agency as expeditiously as possible. An emergency is an act or event, such as a natural disaster (e.g. earthquake, fire, hurricane), facility fire, civil disturbance, or medical emergency (e.g. a chicken pox epidemic among a group of minors) that prevents the prompt placement of minors in licensed facilities. An influx is defined as any situation in which there are more than 130 minors in the custody of the INS who are eligible for placement in licensed programs.

1. The Juvenile Coordinator will establish and maintain an Emergency Placement List of at least 80 beds at programs licensed by an appropriate state agency that are potentially available to accept emergency placements. These 80 placements would supplement the 130 placements that INS normally has available, and whenever possible, would meet all standards applicable to juvenile placements the INS normally uses. The Juvenile Coordinator may consult with child welfare specialists, group home operators, and others in developing the list. The Emergency Placement List will include the facility name; the number of beds at the facility; the name and telephone number of contact persons; the name and telephone number of contact persons for nights, holidays, and weekends if different; any restrictions on minors accepted (e.g. age); and any special services that are available.
2. The Juvenile Coordinator will maintain a list of minors affected by the emergency or influx, including (1) the minor's name, (2) date and country of birth, and (3) date placed in INS custody.
3. Within one business day of the emergency or influx the Juvenile Coordinator, or his or her designee will contact the programs on the Emergency Placement List to determine available placements. As soon as available placements are identified, the Juvenile Coordinator will advise appropriate INS staff of their

availability. To the extent practicable, the INS will attempt to locate emergency placements in geographic areas where culturally and linguistically appropriate community services are available.

4. In the event that the number of minors needing emergency placement exceeds the available appropriate placements on the Emergency Placement List, the Juvenile Coordinator will work with the Community Relations Service to locate additional placements through licensed programs, county social services departments, and foster family agencies.

5. Each year, the INS will reevaluate the number of regular placements needed for detained minors to determine whether the number of regular placements should be adjusted to accommodate an increased or decreased number of minors eligible for placement in licensed programs. However, any decision to increase the number of placements available shall be subject to the availability of INS resources. The Juvenile Coordinator shall promptly provide Plaintiffs' counsel with any reevaluation made by INS pursuant to this paragraph.

6. The Juvenile Coordinator shall provide to Plaintiffs' counsel copies of the Emergency Placement List within six months after the court's final approval of the Settlement Agreement.

EXHIBIT 4 Agreement Concerning Facility Visits Under Paragraph 33

The purpose of facility visits under paragraph 33 is to interview class members and staff and to observe conditions at the facility. Visits under paragraph 33 shall be conducted in accordance with the generally applicable policies and procedures of the facility to the extent that those policies and procedures are consistent with this Exhibit.

Visits authorized under paragraph 33 shall be scheduled no less than seven (7) business days in advance. The names, positions, credentials, and professional association (e.g., Center for Human Rights and Constitutional Law) of the visitors will be provided at that time.

All visits with class members shall take place during normal business hours.

No video recording equipment or cameras of any type shall be permitted. Audio recording equipment shall be limited to hand-held tape recorders.

The number of visitors will not exceed six (6) or, in the case of a family foster home, four (4), including interpreters, in any instance. Up to two (2) of the visitors may be non-attorney experts in juvenile justice and/or child welfare.

No visit will extend beyond three (3) hours per day in length. Visits shall minimize disruption to the routine that minors and staff follow.

Exhibit 5

List of Organizations to Receive Information re: Settlement Agreement

Eric Cohen, Immig. Legal Resource Center, 1663 Mission St. Suite 602, San Francisco, CA 94103

Cecilia Munoz, Nat'l Council Of La Raza, 810 1st St. NE Suite 300, Washington, D.C. 20002

Susan Alva, Immig. & Citiz. Proj Director, Coalition For Humane Immig Rights of LA, 1521 Wilshire Blvd., Los Angeles, CA 90017

Angela Cornell, Albuquerque Border Cities Proj., Box 35895, Albuquerque, NM 87176-5895

Beth Persky, Executive Director, Centro De Asuntos Migratorios, 1446 Front Street, Suite 305, San Diego, CA 92101

Dan, Kesselbrenner, , National Lawyers Guild, National Immigration Project, 14 Beacon St.,#503, Boston, MA 02108

Lynn Marcus , SWRRP, 64 E. Broadway, Tucson, AZ 85701-1720

Maria Jimenez, , American Friends Service Cmte., ILEMP, 3522 Polk Street, Houston, TX 77003-4844

Wendy Young, , U.S. Cath. Conf., 3211 4th St. NE, , Washington, DC, 20017-1194

Miriam Hayward , International Institute Of The East Bay, 297 Lee Street , Oakland, CA 94610

Emily Goldfarb, , Coalition For Immigrant & Refugee Rights, 995 Market Street, Suite 1108 , San Francisco, CA 94103

Jose De La Paz, Director, California Immigrant Workers Association, 515 S. Shatto Place , Los Angeles, CA, 90020

Annie Wilson, LIRS, 390 Park Avenue South, First Asylum Concerns, New York, NY 10016

Stewart Kwoh, Asian Pacific American Legal Center, 1010 S. Flower St., Suite 302, Los Angeles, CA 90015

Warren Leiden, Executive Director, AILA, 1400 Eye St., N.W., Ste. 1200, Washington, DC, 20005

Frank Sharry, Nat'l Immig Ref & Citiz Forum, 220 I Street N.E., Ste. 220, Washington, D.C. 20002

Reynaldo Guerrero, Executive Director, Center For Immigrant's Rights, 48 St. Marks Place , New York, NY 10003

Charles Wheeler , National Immigration Law Center, 1102 S. Crenshaw Blvd., Suite 101 , Los Angeles, CA 90019

Deborah A. Sanders, Asylum & Ref. Rts Law Project, Washington Lawyers Comm., 1300 19th Street, N.W., Suite 500 , Washington, D.C. 20036

Stanley Mark, Asian American Legal Def.& Ed.Fund, 99 Hudson St, 12th Floor, New York, NY 10013

Sid Mohn, Executive Director, Travelers & Immigrants Aid, 327 S. LaSalle Street, Suite 1500, Chicago, IL, 60604

Bruce Goldstein, Attornet At Law, Farmworker Justice Fund, Inc., 2001 S Street, N.W., Suite 210, Washington, DC 20009

Ninfa Krueger, Director, BARCA, 1701 N. 8th Street, Suite B-28, McAllen, TX 78501

John Goldstein, , Proyecto San Pablo, PO Box 4596,, Yuma, AZ 85364

Valerie Hink, Attorney At Law, Tucson Ecumenical Legal Assistance, P.O. Box 3007 , Tucson, AZ 85702

Pamela Mohr, Executive Director, Alliance For Children's Rights, 3708 Wilshire Blvd. Suite 720, Los Angeles, CA 90010

Pamela Day, Child Welfare League Of America, 440 1st St. N.W., , Washington, DC 20001

Susan Lydon, Esq., Immigrant Legal Resource Center, 1663 Mission St. Ste 602, San Francisco, CA 94103

Patrick Maher, Juvenile Project, Centro De Asuntos Migratorios, 1446 Front Street, # 305, San Diego, CA 92101

Lorena Munoz, Staff Attorney, Legal Aid Foundation of LA-IRO, 1102 Crenshaw Blvd., Los Angeles, CA 90019

Christina Zawisza, Staff Attorney, Legal Services of Greater Miami, 225 N.E. 34th Street, Suite 300, Miami, FL 33137

Miriam Wright Edelman, Executive Director, Children's Defense Fund, 122 C Street N.W. 4th Floor,
Washington, DC 20001

Rogelio Nunez, Executive Director, Proyecto Libertad, 113 N. First St., Harlingen, TX 78550

Exhibit 6
Notice of Right to Judicial Review

"The INS usually houses persons under the age of 18 in an open setting, such as a foster or group home, and not in detention facilities. If you believe that you have not been properly placed or that you have been treated improperly, you may ask a federal judge to review your case. You may call a lawyer to help you do this. If you cannot afford a lawyer, you may call one from the list of free legal services given to you with this form."

MEMORANDUM OF AGREEMENT
AMONG
THE OFFICE OF REFUGEE RESETTLEMENT
OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AND
U.S. CUSTOMS AND BORDER PROTECTION
OF THE U.S. DEPARTMENT OF HOMELAND SECURITY
REGARDING
CONSULTATION AND INFORMATION SHARING
IN UNACCOMPANIED ALIEN CHILDREN MATTERS

I. Parties

The Parties to this Memorandum of Agreement (MOA) are the Office of Refugee Resettlement (ORR) in the Administration for Children and Families of the U.S. Department of Health and Human Services (HHS), and U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) of the U.S. Department of Homeland Security (DHS) (collectively “the Parties”).

II. Purpose

The purpose of this MOA is to set forth the expectations of the Parties and implement processes for the Parties to share information about unaccompanied alien children (UACs) at the time of referral from ICE or CBP to ORR; while in the care and custody of ORR, including in the vetting of potential sponsors and adult members of potential sponsors’ households; and upon release from ORR care and custody. This MOA sets forth a process by which DHS will provide HHS with information necessary to conduct suitability assessments for sponsors from appropriate federal, state, and local law enforcement and immigration databases, as required by law. Such information includes information to which HHS would otherwise not have access and without which suitability assessments are incomplete. The Parties recognize such information-sharing as a top priority requiring special attention to ensure that the transfer, placement, and release of UACs are safe for the UACs and the communities into which they are released.

This MOA does not address all necessary coordination between the Parties, nor is that the intent of this document. It is not a substitute for, nor does it supersede or revise, the Parties’ responsibilities under the Memorandum of Agreement between the Department of Homeland Security and the Department of Health and Human Services Regarding Unaccompanied Alien Children, executed on February 22, 2016, which established a framework for interagency coordination.

III. Authorities

This MOA is authorized under, and entered into consistent with, the following provisions of law:

- A. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 102(b), 462, 116 Stat. 2135, 2142, 2202 (codified at 6 U.S.C. §§ 112(b), 279);
- B. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, § 235, 122 Stat. 5044, 5077-79 (codified in principal part at 8 U.S.C. § 1232);
- C. Privacy Act of 1974, as amended, 5 U.S.C. § 552a;
- D. Immigration and Nationality Act of 1952, as amended, §§ 103(a), 287 (codified at 8 U.S.C. §§ 1103(a), 1357); and
- E. Tariff Act of 1930, as amended, § 589 (codified at 19 U.S.C. § 1589a).

IV. HHS and DHS Responsibilities Upon Initial Referral

A. Initial Referral and Transfer

1. At the time of initial referral, the DHS component (ICE or CBP) referring the UAC to HHS (specifically, ORR) will electronically transfer the following information about the UAC, to the extent such information is known and can be gathered in an operationally reasonable manner, to ORR through the UAC Portal or by some other appropriate method:
 - a. Basic biographical data (e.g., name, date of birth, country of birth, potential sponsor information);
 - b. Situational factors (e.g., health, pregnancy, travel companions);
 - c. Human trafficking indicators; and
 - d. Known criminal or behavioral issues, including arrests, criminal charges and convictions, immigration history, gang affiliation or suspected gang affiliation, and violence or behavioral concerns.
2. To ensure ORR has available information and supporting documentation to make an informed placement decision, the apprehending DHS component (ICE or CBP) will normally include in the Transfer Packet:
 - a. Copies of all identity documents;
 - b. DHS Form I-213, Record of Deportable/Inadmissible Alien;
 - c. DHS Form I-216, Record of Persons and Property Transferred;
 - d. DHS Form I-217, Information for Travel Document or Passport;

- e. DHS Form I-770, Notice of Rights and Request for Disposition;
 - f. DHS Form I-862, Notice to Appear or other charging document;
 - g. CBP Form 93, Unaccompanied Alien Child Screening Addendum (trafficking information), if conducted;
 - h. Other applicable DHS, ICE, or CBP forms, if applicable, such as DHS Form I-200, Warrant for Arrest of Alien; and
 - i. Copies of any publicly available federal, state, or local criminal records in the possession of the apprehending DHS component (ICE or CBP) at the time of transfer and appropriate available documentation describing any gang, immigration, criminal, or other activity that may affect placement.
3. As expeditiously as possible, but no later than 24 hours after receiving notification from ICE or CBP of a UAC needing placement at an ORR facility, ORR will send a notification email notifying both ICE and CBP of the placement location. At a minimum, the message will include:
- a. Identifying information of the UAC at issue;
 - b. Facility name and location; and
 - c. Facility point of contact (name and telephone number).

B. ORR Care

1. While UAC are in ORR care, ORR will notify ICE or CBP of the following situations, as expeditiously as possible, but no later than 48 hours after the occurrence:
- a. Unauthorized absences. The ORR-funded care provider will contact the ICE Enforcement and Removal Operations (ERO) Field Office Juvenile Coordinator (FOJC) by telephone and provide notice by email.
 - b. Arrest of a UAC in ORR custody. The ORR-funded care provider will contact the FOJC by telephone and provide notice by email.
 - c. Death of a UAC. ORR headquarters will immediately notify, by telephone, ICE ERO.
 - d. Alleged or suspected fraud, human smuggling, human trafficking, drug trafficking, weapons trafficking, or gang-related activity. ORR will notify the ICE Homeland Security Investigations Tip Line by email and, for human trafficking specifically (either by or of a UAC), ORR will also email the ICE Human Trafficking Help Desk.
 - e. Abuse of a UAC in ICE or CBP custody. If ORR becomes aware of allegations of abuse of a UAC while he or she was in ICE or CBP custody, ORR will notify the appropriate DHS component (ICE or CBP) as required under ORR policy.
 - f. Violence by a UAC while in ORR care. ORR will notify the FOJC of incidents of physical violence or assault by a UAC in its care, including incidents between a UAC and facility staff.

- g. Change in level of care. ORR will provide notice by email to the FOJC of any step up/step down to or from secure care for the UAC.
2. ORR will provide to the FOJC copies of all age-determination findings concluding that an individual is 18 years of age or over, as soon as possible from the time of such determination.
3. If ICE or CBP becomes aware of any criminal information (e.g., information regarding gang affiliation) that it did not have at the time of initial referral and transfer, ICE or CBP will notify ORR as expeditiously as practicable after becoming aware of the information (using their best efforts to provide such notification within 48 hours), and provide supporting documentation, to aid in ORR's consideration of whether transfer of the UAC may be necessary.
4. To the extent permitted by law, and consistent with policy, DHS will report to ORR the results of any investigations (including investigations commenced following ORR's notification under Section IV(B)(1) of this MOA) they conduct that would be relevant to ORR's determinations concerning UAC care and placement. Such information will be provided as expeditiously as possible, and normally within 96 hours of such information becoming available.

V. HHS and DHS Responsibilities Prior to ORR Release of a UAC to a Sponsor

A. HHS's Responsibilities

1. Pursuant to 8 U.S.C. § 1232(c)(3)(A), HHS must make a determination that a proposed sponsor is capable of providing for the child's physical and mental well-being. Such determination includes verification of the proposed sponsor's identity and relationship, as well as a finding that the proposed sponsor has not engaged in any activity that would indicate a potential risk to the child. In all placement determinations, HHS must ensure, among other things, that the UAC is likely to appear for all hearings or proceedings in which they are involved, is protected from smugglers and traffickers, and is placed in a setting where the UAC will not pose a danger to himself or others. 6 U.S.C. § 279(b)(2). In order to fulfill its statutory duty under 8 U.S.C. § 1232(c)(3)(A) and to ensure that all proposed placements meet the standards set forth in 6 U.S.C. § 279, ORR will take the following steps:
 - a. Prior to any release of a UAC from ORR care and custody to any sponsor, ORR will request from ICE information about all potential sponsors and adult members of potential sponsors' households, in order to aid HHS in determining the suitability of a potential sponsor. Such information includes the citizenship, immigration status, criminal history, and immigration history (to the extent consistent with the Privacy Act of 1974). ORR will advise the potential sponsor that this process is a required step in the UAC placement process.

B. ORR will provide ICE with the name, date of birth, address, fingerprints (in a format and transmitted as prescribed by ICE from time to time), and any available identification documents or biographic information regarding the potential sponsor and all adult members of the potential sponsor's household. ICE will then provide ORR with the summary criminal and immigration history of the potential sponsor and all adult members of the potential sponsor's household to the extent available to ICE, consistent with the applicable confidentiality provisions of the Immigration and Nationality Act (INA). ORR will use the criminal and immigration history information provided by ICE in ORR's individualized determination of sponsorship eligibility.

1. ICE will ascertain only criminal and immigration history information. ORR will remain responsible for searching various databases including public records, Sex Offender Registry, National (FBI) Criminal History, Child Abuse and Neglect, State Criminal History Repository, and local police records for all potential sponsors.

C. DHS's Responsibilities

1. Upon notice from an ORR-funded care provider that a potential sponsor or adult member of a potential sponsors' household requires screening for criminal and immigration histories and that ORR has received proper authorization from the potential sponsor or adult household members, ICE will conduct the initial screening. At a minimum, the review will include:
 - a. A biographic criminal check of the national databases;
 - b. A biographic check for wants and warrants; and
 - c. An immigration status check of the immigration databases.
2. ICE will run the fingerprints of the potential sponsor and/or adult household member and review the response received for any criminal activity.
3. ICE will provide the relevant criminal and immigration history information (consistent with the applicable confidentiality provisions of the INA) on the potential sponsor and adult household members within 72 hours, excluding weekends and holidays, after ORR requests the information and provides ICE with the necessary background information on the potential sponsor or adult member of the potential sponsors' household.

VI. Severability

Nothing in this Agreement is intended to conflict with current law or regulation or the directives of DHS, CBP, ICE, HHS, or ORR. If a term of this MOA is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

VII. Disputes

Disagreements between the Parties arising under or related to this MOA will be resolved by consultation. Attempts to resolve disputes will occur first at the lowest level possible. Any issues left unresolved after due consultation may be raised to the appropriate levels in the Parties, or if necessary, DHS and HHS.

VIII. Funding

Each Party intends to bear its own costs in relation to this MOA. Expenditures are subject to the Parties' budgetary resources and availability of funds pursuant to applicable laws and regulations. The Parties expressly acknowledge that this MOA in no way implies that funding is to be made available for such expenditures and does not obligate the Parties to expend any funds. Nothing in this MOA is intended to or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Antideficiency Act, 31 U.S.C. §§ 1341-1519.

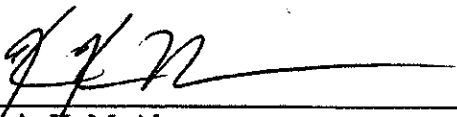
IX. No Private Rights

This MOA is an agreement between the Parties and is not intended to, does not, and should not be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party in any administrative, civil, or criminal matter, against the United States, or any of its agencies, officers, or employees. This MOA does not and is not intended to place any limitations on the otherwise lawful enforcement or litigative prerogatives of the Parties.

X. Effective Date, Modification, and Termination

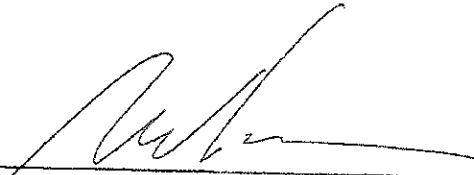
This MOA will take effect thirty (30) days after signature by the Parties and will remain in effect until revised or revoked in writing by mutual agreement of the Parties, or terminated without cause by any Party upon thirty (30) days advance notice in writing of intent to terminate.

Approved by:




Kevin K. McAleenan
Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security

04/13/18
Date



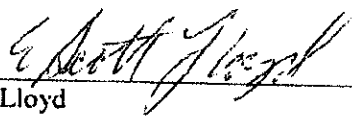
Thomas D. Homan
Deputy Director and Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

APR 13 2018
Date



Steven Wagner
Acting Assistant Secretary for Children and Families
U.S. Department of Health and Human Services

04-13-18
Date



Scott Lloyd
Director
Office of Refugee Resettlement
Administration for Children and Families
U.S. Department of Health and Human Services

4/13/18
Date



ADMINISTRATION FOR
CHILDREN & FAMILIES

330 C Street, S.W., Washington, DC 20201 | www.acf.hhs.gov

September 13, 2016

The Honorable Rob Portman
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

The Honorable Claire McCaskill
Ranking Member
Permanent Subcommittee on Investigations
Committee on Homeland Security & Governmental Affairs Committee
United States Senate
Washington, DC 20510

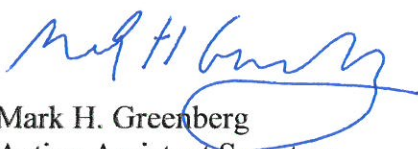
Dear Chairman Portman and Senator McCaskill:

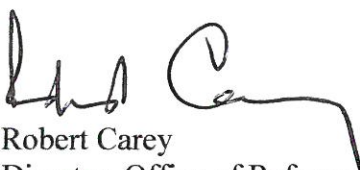
Thank you again for your May 31, 2016, letter concerning the responses we submitted to the questions for the record following the January 28, 2016, hearing by the Permanent Subcommittee on Investigations entitled, "Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children from Human Trafficking."

As promised in our September 6, 2016 letter, answers to the remaining questions in response to your May 31, 2016, letter are included in the attached document.

We hope you find this information helpful. Please let us know if we can be of further assistance.

Sincerely,


Mark H. Greenberg
Acting Assistant Secretary
Administration for Children and Families


Robert Carey
Director, Office of Refugee Resettlement
Administration for Children and Families

Enclosure

Attachment

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.

ORR relies on the Homeland Security Act of 2002 (HSA) 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.

Paragraph 16 of the *Flores* Settlement provided that "The INS may terminate the custody arrangements and assume legal custody" of a minor whose custodian fails to comply with the Affidavit of Support, but HHS's view is that ORR does not have the same ability to remove a child from a home and reassume custody as the former INS had at that time. Although ORR cannot directly reassume custody of a child, its concern for the child's welfare continues and staff work closely with other Federal, State, and local authorities as noted below.

ORR undertakes an extensive screening process before releasing a child to a sponsor, provides information to sponsors about community resources, and provides post-release services and other resources consistent with the statute and ORR policy.

If any of our provider grantees or staff have reason to believe that a child is unsafe, they are required to comply with mandatory reporting laws, State licensing requirements, and Federal laws and regulations for reporting to local child protective agencies and/or law enforcement.

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.

The *Flores* consent decree cannot grant HHS any authority that it does not have by statute. As noted above, although the *Flores* Settlement provided that "The INS may terminate the custody arrangements and assume legal custody" of a minor whose custodian fails to comply with the Affidavit of Support, HHS's view is that ORR does not have the same ability to remove a child from a home and reassume custody as the former INS had at that time. We note, moreover, the interplay of the *Flores* Settlement Agreement (FSA) and the Trafficking Victims Protection Reauthorization Act (TVPRA) and

Homeland Security Act (HSA) is complex and the subject of significant legal uncertainty. Indeed, it continues to be the subject of litigation.

Authorization for Release of Information



ADMINISTRATION FOR CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

Carefully read this authorization, then sign and date it in black ink.

I Authorize any investigator, special agent, employee, contractor, grantee or other duly accredited representative working on behalf of the Office of Refugee Resettlement (ORR) conducting my background investigation or sponsorship assessment to obtain and receive information for the purposes of assessing my ability to provide appropriate care and placement of a child and for providing post release services, as needed, or my background as a member of the household or care giver for a child, as applicable. I authorize any federal, state, or local criminal justice agency; federal, state, local, or private child welfare agency; federal immigration agency; or any other sources of information, such as schools, courts, treatment providers, probation/parole officers, mental health professionals, or other references, to release information about any criminal history, child abuse and neglect charges or concerns, past and present immigration status, mental health issues, substance abuse, domestic violence, or any other psychosocial information gathered about me either verbally or in writing.

I Authorize custodians of records and sources of information pertaining to me to release such information upon request of the investigator, special agent, employee, contractor, grantee, or other duly accredited representative of the Office of Refugee Resettlement.

I Understand that my biometric and biographical information, including my fingerprints, is shared with Federal, state, or local law enforcement agencies and may be used consistent with their authorities, including with the U.S. Department of Homeland Security (DHS) to determine my immigration status and criminal history, and with the Department of Justice (DOJ) to investigate my criminal history through the National Criminal Information Center.

I Understand that the information released by any custodian of my records and any other sources of information about me is for official use by the U.S. Government, its employees, grantees, contractors, and other delegated personnel, for the purposes stated above, and may be disclosed by the U.S. Government only as authorized by law.

ORR UAC/FRP-2 [Rev. 05/14/2018]

OMB 0970-0278 [valid through 10/31/2018]

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13) Public reporting burden for this collection of information is estimated to average 0.25 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Please see the accompanying privacy notice / Privacy Act statement for a discussion of (1) the authority for solicitation of information, and whether disclosure is mandatory or voluntary, (2) the principal purposes for which the information is intended to be used, (3) other routine uses which may be made of the information, and (4) the effects, if any, of not providing all or any part of the requested information.

Page 1 of 5

I Understand that this information will become the property of the ORR and may be reviewed by its employees, grantees, contractors, and delegates. I also understand that the ORR may share this information with the employees and contractors of other federal agencies.

I Hereby Relinquish any claim or right under the laws of the United States against the federal government, its employees, grantees, contractors, or delegates, for the legally authorized use of any information gathered during a search of my criminal history, child welfare information, past or present immigration status, any information contained in my sponsorship application and supporting documentation, and any information gathered from any verbal or written sources regarding this sponsorship application. I hereby relinquish any claim or previous agreement with any federal, state, local, or private agency that would bar the ORR or the agency's official delegate from obtaining the requested information.

I declare and affirm under penalty of perjury that the information contained in this authorization is true and accurate to the best of my knowledge.

YOUR SIGNATURE _____ **DATE** _____

YOUR FULL NAME (PRINT CLEARLY)

STAFF USE ONLY	
UAC NAME(S)	
UAC A#(S)	
CARE PROVIDER	
DIGITAL SITE LOCATION (IF ANY)	

Information required for background check

1) About the minor(s)

List the names and dates of birth of all children you are applying to sponsor

Minor's Name	Minor's Date of Birth

2) Your full name (include first name, middle name, and last name)

3) Other names you have used

List other names you have used, such as your name before you were married or maternal last names and when you stopped using them.

Previous name	When you stopped using this name (month/year, e.g., 12/2010)

4) Your date of birth

e.g., 12/31/1979

5) Your place of birth

Where were you born?

City

County

State

Country

[ORR UAC/FRP-2 \[Rev. 05/14/2018\]](#)

[OMB 0970-0278 \[valid through 10/31/2018\]](#)

Page 3 of 5

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13) Public reporting burden for this collection of information is estimated to average 0.25 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Please see the accompanying privacy notice / Privacy Act statement for a discussion of (1) the authority for solicitation of information, and whether disclosure is mandatory or voluntary, (2) the principal purposes for which the information is intended to be used, (3) other routine uses which may be made of the information, and (4) the effects, if any, of not providing all or any part of the requested information.

PSI-041

6) Addresses: Where have you lived in the last five (5) years?

Street address (+ apartment number, if applicable)	City (Country)	State	Zip code	From date (month/year)	To date (month/year)
<i>(EXAMPLE)</i> 2539 Lowndes Hill Park Road	San Antonio	TX	78201	12/2014	11/2015
Current Address					Current

Immigration Information (if applicable)

If you are not a US citizen, please provide the following information

7a) Alien registration number

A#

7b) Country of Citizenship

United States Citizenship information

If you are a U.S. citizen but were not born in the U.S., provide information about *at least one* of the following proofs of citizenship.

8a) Naturalization Certificate

Court	City	State	Certificate Number	Month/Day/Year Issued

8b) Citizenship Certificate Where was the certificate issued?

City	State	Certificate Number	Month/Day/Year Issued

8c) State Department Form 240 – Report of Birth Abroad of a Citizen of the United States

Date form was prepared (Month/Day/Year)	Explanation (if needed)

8d) U.S. Passport This may be either a current or previous U.S. Passport

Passport Number	Month/Day/Year Issued

9e) DUAL CITIZENSHIP (if applicable)

Name the country where you are a citizen in addition to the U.S.

**MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF HOMELAND SECURITY
AND
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGARDING
UNACCOMPANIED ALIEN CHILDREN**

1. Parties

The Parties to this Memorandum of Agreement (hereinafter "MOA") are the Department of Health and Human Services (HHS) and the Department of Homeland Security (DHS) (hereinafter, collectively, the "Parties").

2. Purpose

To continue to address the needs of unaccompanied alien children (UAC), as defined at 6 U.S.C. § 279(g)(2), the Parties recognize the following shared goals: ensure the safe and expedited transfer and placement of UAC from DHS to HHS custody; maximize efficiency in the allocation and expenditure of the Parties' respective program costs; ensure information is transmitted between the Parties to facilitate appropriate placement decisions 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 UAC placement determinations; protect UAC 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 UAC.

The Parties acknowledge the critical role of consistent interagency coordination on the care, processing, and transport of UAC. This 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 UAC.

3. Authority

The primary authorities that authorize or support this MOA are:

- A. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 102(b) (2), 462, 116 Stat. 2142, as amended (codified at 6 U.S.C. §§ 112(b) (2), 279);
- C. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, § 235, 122 Stat. 5044, 5074, as amended (codified in part at 8 U.S.C. § 1232);
- D. Immigration and Nationality Act of 1952, as amended;
- E. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54;
- F. Title 8, Code of Federal Regulations.

4. Responsibilities

- A. The Parties agree to establish a Joint Concept of Operations (JCO) that should be completed no later than one year following the signing of this MOA, which should include, but need not be limited to standard protocols for consistent interagency cooperation on the care, processing, and transport of UAC, during both steady state operations as well as in the event the number of UAC exceeds the standard capabilities of the Parties to process, transport, and/or shelter with existing resources.
- B. The Parties agree to establish the following structure for UAC coordination to monitor and resolve issues, share information, and establish and maintain the JCO:
1. The Parties will establish and co-chair a Senior Leadership Council to serve as the coordinating body for consistent interagency cooperation on the care, processing, and transport of UAC. The Senior Leadership Council will also serve as a forum for discussing broader policy issues arising from these operational concerns. The Senior Leadership Council shall be composed of an equal number of senior officials from HHS and DHS representing relevant operational, policy, and administrative divisions responsible for UAC policies and operations, and will be co-chaired by two senior officials, one each designated by HHS and DHS.
 2. The Parties will establish and co-chair an Interagency Work Group. The Group shall be composed of subject matter experts from each Party's relevant agencies and shall be co-chaired by a representative of HHS and DHS who shall be appointed by the Senior Leadership Council. Members may be added to the Interagency Work Group as co-chairs determine such additions to be necessary.
 3. The Senior Leadership Council will:
 - i. Oversee and monitor the work by the Interagency Work Group, including the development of the JCO and the implementation of the Unified Coordination Group Plan for UAC Surge (which outlines the coordinated Federal response activities for a surge influx of UAC using an integrated concept of operations (UAC Plan for UAC Surge));
 - ii. Review, approve, and ensure implementation of the policies, procedures, and protocols presented by the Interagency Work Group;
 - iii. Provide direction and instruction to the Interagency Work Group; and
 - iv.
 - v. Convene additional work groups as it deems necessary and appropriate.
 4. The Interagency Work Group will be composed only of federal officials from each Party's relevant headquarters and component agencies, including but not limited to representatives from HHS ACF, and such other HHS representatives as HHS may determine and representatives from DHS CBP, DHS ICE, DHS OHA, DHS CRCL, DHS PLCY, DHS CISOMB, DHS FEMA, DHS PRIV, and DHS USCIS.
 - i. Members may be added to the Interagency Work Group as co-chairs determine such additions to be necessary.

- ii. Members will participate in any subject matter interagency group established at the direction of the Executive Office of the President (EOP) to ensure cooperation and coordination across the Federal Government, to the extent such participation is consistent with the EOP directive.
 - iii. Members will prepare the JCO and implement the UAC Plan for UAC Surge as directed by the Senior Leadership Council, develop policies and procedures to ensure coordinate operations across agencies, and support and guide basic operational decisions at the field level to the extent permitted by law. Both the JCO and UAC Plan for UAC Surge are to be appropriately cleared within respective agencies and, if necessary, in the Interagency Work Group.
 - iv. The Interagency Work Group will also serve as a forum for resolving immediate complaints or concerns raised about the UAC process, identifying areas of concern, and attempting to resolve matters at the SME level before raising issues to the Senior Leadership Council.
5. Meetings of the Senior Leadership Council should take place quarterly. Meetings of the Interagency Working Group will take place as needed, and no less than once per month.

C. Information Sharing/Reporting Requirements

1. The Parties agree to establish data-sharing capabilities to facilitate coordinated UAC-related operations to the extent authorized by applicable law, regulations, and policy to facilitate coordinated UAC-related operations, as needed. In the event of a request for information from Congress, the media, or a member of the public, the originator of the information is responsible for responding to such requests. If the Party receiving such request is not the originator, that Party will expeditiously route the request to the originating agency within the other Party. With respect to reports and other products created jointly by the Parties, the Parties should consult with each other prior to the disclosure of the information.
2. The Parties agree to provide each other with UAC-related reports in a mutually agreed upon format, with mutually agreed upon regularity and with mutually agreed upon content.
3. The Parties agree on the need to ensure a closely coordinated and prompt response to seasonal and other changes in UAC migration patterns and flows.
4. The Parties agree to review and coordinate other migration plans (or portions thereof) that may relate to the UAC population to ensure the UAC population is properly incorporated.

D. Administrative Development

1. Each Party will make all reasonable efforts to notify the other about upcoming changes in UAC policy and procedures that may impact the other agency's policies or operations (absent exigent circumstances).
2. During UAC-relevant grant solicitation or panel review periods, each Party will invite the other agency to contribute any information that could be valuable to deliberations on awards.

5. Disputes

Disagreements between the Parties arising under or relating to this MOA will be resolved by consultation between the Parties. Attempts to resolve disputes will be made first at the lowest level possible. Any issues unresolved, after due consultation, may be raised to the appropriate level within each Party.

6. Effective Date, Modification, and Termination

This MOA is in effect upon the date of the last signature affixed hereto and will remain in effect until such time as the Parties enter into a new MOA, revise this MOA in writing by mutual consent, or terminate this MOA upon no less than 30 days' prior written notice by either Party. This MOA will be reviewed for modifications not less than once every five years from the effective date.

7. No Private Right

This MOA does not and is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person or entity in any matter, including any civil, criminal, or administrative matter. This MOA is intended to provide a framework for the Parties for handling the various matters described herein; it is not intended to be legally binding on either Party.

8. Other

- A. Nothing in this MOA is intended to conflict with or supersede current law, regulation, or Presidential memoranda, orders, or directives. If a term of this MOA is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this MOA shall remain in full force and effect.
- B. Each Party shall use its own appropriated or allotted funds and resources in performing activities under this MOA. The MOA does not provide for the reimbursement of funds. If the Parties wish to enter into a reimbursement arrangement, the Parties will enter into that arrangement separate and apart from this MOA.
- C. Written notice to the Department of Homeland Security shall be sent to the official identified below or such successor as is identified by the agency:

Name: Mary Giovagnoli
Deputy Assistant Secretary for Immigration Policy
Office of Policy

Email: mary.giovagnoli@hq.dhs.gov

Written notice to the Department of Health and Human Services shall be sent to the

official identified below or such successor as is identified by the agency:

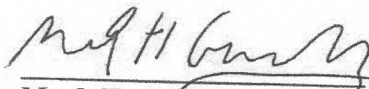
Name: Tricia Swartz
Associate Deputy Director
Office of Refugee Resettlement

Email: tricia.swartz@acf.hhs.gov

APPROVED BY:

_____ Date: _____

Alan Bersin
Assistant Secretary for International Affairs and Chief Diplomatic Officer
Office of Policy
U.S. Department of Homeland Security

 Date: **FEB 19 2016**

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

official identified below or such successor as is identified by the agency:

Name: Tricia Swartz
Associate Deputy Director
Office of Refugee Resettlement

Email: tricia.swartz@acf.hhs.gov

APPROVED BY:

 Date: 2/22/2016

Alan Bersin
Assistant Secretary for International Affairs and Chief Diplomatic Officer
Office of Policy
U.S. Department of Homeland Security

_____ Date: _____
Mark H. Greenberg
Acting Assistant Secretary, Administration for Children and Families
U.S. Department of Health and Human Services

Office of Refugee Resettlement National Call Center

HELP LINE 1 (800) 203-7001 | information@ORRNCC.com

Text the word NINOS to 66467

FOR CHILDREN

If you are in immediate danger, call 9-1-1

If you experience any of the following, we are here to help:

- Nowhere to sleep
- Someone is forcing you to do something that makes you feel uncomfortable
- Someone is keeping you away from food, shelter, school, or medicine
- Trouble feeling safe and happy
- You are angry or hurting
- Feeling very sad or unwanted
- Family problems
- Kids being mean to you at school
- Difficulty finding help
- Difficulty with court
- Trouble finding your paperwork

For Parents and Sponsors

Looking for a child coming to the United States?

- We will ensure your message gets to the shelter caring for your child



Open 24 hours a day, 7 days a week. Call or text the word NINOS to 66467 any time.

Is your child already home? We can help with:

- Finding resources in your community for education, medical care, emotional support, juvenile justice, substance use, legal support and safety
- Assistance with child behavioral issues after reunification, including:
 - Kids running away
 - Kids feeling very sad or angry
 - Involvement with drugs or gangs
 - Inappropriate relationships
 - Kids hurting other kids
 - Kids getting into trouble at school
 - Any behavior that worries you
- Support for you to help strengthen your relationship with your child
- Assistance making sure your child has access to schools and education
- Support with family problems or domestic violence
- Help getting copies of child/immunization records and completing paperwork
- Assistance finding legal support and understanding court processes



1 (800) 203-7001



Text NINOS to 66467

NINOS
PSI-050



ADMINISTRATION FOR
CHILDREN & FAMILIES

The Honorable Claire McCaskill
Ranking Member
Permanent Subcommittee on Investigations
Homeland Security & Government Affairs Committee
U.S. Senate
Washington, D.C. 20510

FEB 22 2016

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

[REDACTED]

From: [REDACTED] (HSGAC)
Sent: Tuesday, February 06, 2018 10:33 AM
To: [REDACTED] (HHS/ASL); [REDACTED] (HHS/ASL)
Cc: [REDACTED] (HSGAC); [REDACTED] (HSGAC); [REDACTED] (HSGAC); [REDACTED] (HSGAC)
Subject: RE: PSI Briefing

Hi [REDACTED],

We will have follow-up related to the responses below, but in the meantime I wanted to pass along a related briefing request:

We would also like to request a separate briefing focused on HHS ORR's gang initiative discussed during the January 17th briefing. In general, we are interested in the origins of this initiative and any specific safety or security-related incidents among UACs that may have led to the program being prioritized by HHS ORR. We are also interested in learning more about the secure and staff secure facilities that HHS ORR maintains. Please be prepared to discuss the locations of these facilities, the number of UACs housed in each with demographic breakdowns by gender and country of origin, and the number of supervisory officers assigned to work in each facility.

Please let us know if you need a more formal request or if you have any questions.

Best,
[REDACTED]

From: [REDACTED] (HHS/ASL) [REDACTED]
Sent: Sunday, February 04, 2018 11:53 AM
To: [REDACTED] (HSGAC); [REDACTED] (HHS/ASL)
Cc: [REDACTED] (HSGAC); [REDACTED] (HSGAC); [REDACTED] (HSGAC); [REDACTED] (HSGAC)
Subject: RE: PSI Briefing

[REDACTED],

Here are the answers to your follow-up questions. Please note that since the ORR team started pulling this information after the briefing, we missed a question in your Jan. 26 email. We'll still need to get you the data on number of staff secure facilities (we've already asked). I'll give you a buzz tomorrow or Tuesday to discuss next steps considering there are several of your folks working with ORR currently.

1. When did ORR make a request of OGC to review the statutory authority to determine if ORR could follow-up on UACs post-release and take them back into custody?

ORR Response: In April 2017, a request was sent to general counsel concerning the issue. Conversations about the operational and legal implications and considerations have been ongoing. Most recently, in January 2018, additional questions were sent to general counsel.

2. What does HHS do with information received when they are contacted by state child welfare agencies with concerns about a UAC's safety and welfare? How is that information used by HHS for future child protection?

ORR Response: When a sponsor does not fulfill his/her sponsorship obligation (an agreement is signed at the time of release) for any reason they are flagged in the ORR portal. This alerts ORR if they try to sponsor another child. Child abuse would fall into this category of not upholding the sponsorship agreement because of failure to protect the child. Other reasons, for example, might include not enrolling the child in school or not participating in post release services.

3. Have there been any changes to policies regarding the provision of post-release services since summer 2017?

ORR Response: ORR Post Release service policy is published on the ORR website, <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-6#6.2>. Updates are noted at the bottom of the policy with the date the policy was updated.

4. In FY17, out of 41,000 total UAC releases, HHS was allotted funding for the provision of PRS to 11,000 children. How many UAC were actually provided PRS in FY17?

ORR Response: In FY16, ORR conducted 3,540 home studies and provided 10,546 UACs with post release services. In FY17, ORR conducted approximately 2,900 home studies and provided 11,500 UACs with post release services.

5. The list of contractors and grantees providing post-release services.

ORR Response:

- BCFS Health and Human Services
- The Children's Village, Inc.
- Florence Crittenton Services of Orange County, Inc.
- Heartland Human Care Services
- Lutheran Immigration and Refugee Services, Inc.
- MercyFirst
- Morrison Child and Family Services
- Southwest Key Programs, Inc.
- United States Conference of Catholic Bishops
- United States Committee for Refugees and Immigrants

6. ORR policy on placements in secure and staff secure facilities.

ORR Response: We have attached the full Policy and Procedures relating to placement in ORR facilities, and our corresponding forms. Below are descriptions of the attached documents.

- **Template UAC Initial Placement Form**- This is our referral form. It is duplicated in the Portal for referrals received directly there. We require receipt of this form for all referrals made.
- **UAC Placement Tool**- Intakes completes the first part of this tool (which is housed in the Portal) as an aid in determining placement level of care when processing referrals for minors with criminal history, gang involvement, or other factors (as outlined in the Policy Guide) that may require a more restrictive placement. The referral information and score from this tool are shared with an FFS Supervisor who approves type of placement for the UAC. (This procedure is outlined in the UAC MAP Section 1.3.2)
- **UAC Policy Guide Section 1**- This is where all the policies relating to placement in ORR facilities are housed. The policies that relate most directly to Intakes are in **Section 1.2-1.3**. These are also found online here: <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-1#1.1>

7. Details on the JCO process including the dates the JCO was shared with DHS and returned to HHS, the expected timeline based on a joint commitment with DHS, and more information on what is holding up progress on the JCO.

ORR Response: ORR submitted the last draft to DHS on October 6. DHS submitted their revised comments to the ORR draft on January 24, 2018.

8. How often do sponsors decline post-release services or not follow through?

ORR Response: About 13% of sponsors decline or do not follow through with post release services.

Thanks!

From: [REDACTED] (HSGAC) [REDACTED]
Sent: Friday, January 26, 2018 3:05 PM
To: [REDACTED] (HHS/ASL); [REDACTED] (HHS/ASL)
Cc: [REDACTED] (HSGAC); [REDACTED] (HSGAC); [REDACTED] (HSGAC); [REDACTED] (HSGAC)
Subject: RE: PSI Briefing

[REDACTED],

Thanks again for your help arranging last week's briefing for PSI and HSGAC staff. Below are the list of follow-up items from that discussion. I'd like to flag items #1 and 10 as priorities for the Subcommittee.

As always, please let me know if you have any questions.

Best,

Follow-up items from HHS ORR's 1/17/18 briefing:

1. Timing of the request to OGC regarding legal responsibilities for UAC after placement with sponsors in the United States and the form of that request.
2. What does HHS do with information received when they are contacted by state child welfare agencies with concerns about a UAC's safety and welfare? How is that information used by HHS for future child protection?
3. A copy or link to the program rules and guidelines for provision of PRS.
4. Have there been any changes to policies regarding the provision of post-release services since summer 2017?
5. In FY17, out of 41,000 total UAC releases, HHS was allotted funding for the provision of PRS to 11,000 children. How many UAC were actually provided PRS in FY17?
6. The list of contractors and grantees providing post-release services.
7. ORR policy on placements in secure and staff secure facilities.
8. Further information on the type of information HHS would like access to from DHS.
9. Details on the JCO process including the dates the JCO was shared with DHS and returned to HHS, the expected timeline based on a joint commitment with DHS, and more information on what is holding up progress on the JCO.

OFFICE OF REFUGEE RESETTLEMENT

An Office of the Administration for Children & Families

Facts and Data

General Statistics

Data provided by fiscal year (October 1 – September 30)

Age | Country of Origin | Gender | Home Studies and Post-Release Services | Length of Stay | Referrals | Release to Sponsors

Age

Age breakdown of unaccompanied alien children by fiscal year (October 1 – September 30)

AGE	FY2017	FY2016	FY2015	FY2014	FY2013	FY2012
0-12	17%	18%	17%	21%	14%	11%
13-14	13%	14%	14%	16%	13%	11%
15-16	37%	37%	38%	36%	40%	39%
17	32%	31%	30%	27%	34%	38%

Country of Origin

The top three countries of origin shifted slightly from FY2014, with the highest percentage of children in FY2015 coming from Guatemala, followed closely by El Salvador and Honduras.

COUNTRY OF ORIGIN	FY2017	FY2016	FY2015	FY2014	FY2013	FY2012
HONDURAS	23%	21%	17%	34%	30%	27%
GUATEMALA	45%	40%	45%	32%	37%	34%
EL SALVADOR	27%	34%	29%	29%	26%	27%
MEXICO	<3%	3%	6%	<2%	3%	8%
ALL OTHER COUNTRIES	3%	2%	3%	<3%	5%	4%

Gender

The demographic breakdown in FY15 changed slightly from FY14 to reflect an increase in male UAC arrivals and decrease in female UAC arrivals.

YEAR	MALES	FEMALES
FY2017	68%	32%
FY2016	67%	33%
FY2015	68%	32%
FY2014	66%	34%
FY2013	73%	27%
FY2012	77%	23%

Home Studies and Post-Release Services

Number of home studies conducted by ORR and number of unaccompanied alien children served by post-release services (PRS).

YEAR	HOME STUDIES	UAC SERVED BY PRS
FY2017	3,173	13,381
FY2016	3,540	10,546

YEAR	HOME STUDIES	UAC SERVED BY PRS
FY2015	1,895	8,618

Length of Stay

Average length of stay of a child in shelter care* in FY2017 was 41 days.

*Includes Shelter and Transitional Foster Care only

Referrals

This reflects the number of referrals ORR receives from the Department of Homeland Security each fiscal year. Read more about **referrals to ORR and initial placement** (<https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-1#1.3>).

YEAR	REFERRALS
FY2017	40,810
FY2016	59,170
FY2015	33,726
FY2014	57,496
FY2013	24,668
FY2012	13,625

Release to Sponsors

View the number of unaccompanied alien children released to sponsors by **state** (<https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-state>) and by **county** (<https://www.acf.hhs.gov/orr/resource/unaccompanied-alien-children-released-to-sponsors-by-county>)

View ORR Fact Sheet on Unaccompanied Alien Children's Services

(https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_on_unaccompanied_alien_childrens_services_0.pdf)

Listen (https://app.readspeaker.com/cgi-bin/rsent?customerid=7596&lang=en_us&readid=main&url=https%3A%2F%2Fwww.acf.hhs.gov%2Fforr%2Fabout%2Fucs%2Ffacts-and-data)

Last Reviewed: June 25, 2018

Office of Refugee Resettlement Sponsor Handbook



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Definitions

Office of Refugee Resettlement (ORR): The Office of Refugee Resettlement is a federal office in the Administration for Children and Families, an operational division of U.S. Department of Health and Human Services, and oversees care for unaccompanied children in the United States.

Care Provider: A care provider is any ORR funded program that is licensed, certified or accredited by an appropriate State agency to provide residential care for children, including shelter, group, foster care, staff-secure, secure, therapeutic or residential treatment care for children.

Reunification: Reunification is the process of a child being released from ORR care to a sponsor. A child is reunified only when the sponsor has been approved by the government as a safe caregiver for the child.

ORR National Call Center (ORRNCC): The call center is a helpline for unaccompanied children, sponsors, and their families to support them throughout the reunification process, including after the child is released to a sponsor's care.

Family Reunification: Family reunification is an older term used in the Flores Settlement Agreement to refer to the process of releasing an unaccompanied child to the care of a parent, relative or other sponsor.

Sponsor: A sponsor is an individual (in the majority of cases a parent or other relative) or entity to which ORR releases an unaccompanied child out of Federal custody.

Post-Release Services: Post-release services are synonymous with follow-up services. They are services provided to an unaccompanied child based on the child's needs after he/she leaves ORR care. 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. Post-release services can occur until the minor attains 18 years of age. Post-release services can occur in combination with a home study or independently. Participation in Post Release Services is a voluntary choice by the sponsor and unaccompanied child.



ADMINISTRATION FOR
CHILDREN & FAMILIES
Office of Refugee Resettlement

Division of Unaccompanied Children Operations Fingerprint Instructions for Sponsors

In order to sponsor a minor in the custody of the Office of Refugee Resettlement (ORR), you must undergo a background check that requires you to be fingerprinted. Background checks typically take between one to two weeks to complete.

You must be fingerprinted within 3 days to begin the family reunification process. Please note that any delays made in filing any required paperwork or not attending a scheduled fingerprinting will delay the release of the minor you are attempting to sponsor.

Steps for Fingerprinting

1. Read the *Authorization for Release of Information* carefully and complete the form.
2. Fax or email the Case Manager the completed form and a copy of your photo ID. If you are unable to fax or email the documents, please send it by express or priority mail as soon as you are able to do so.
3. After submitting the form, the Case Manager will either arrange a fingerprinting session for you or will give you the contact information of the designated digital fingerprinting site to arrange your own appointment. *If you are unable to travel* to the designated digital fingerprint site, you may discuss with your Case Manager the option to provide two sets of paper fingerprints cards.
4. Attend your fingerprinting session at the scheduled time at the designated digital fingerprint site.
5. Contact the Case Manager after you attend your fingerprinting session to let him or her know you have done so and wait for any other instructions.

Requesting Background Check Results

Sponsors and adult household members may review the results of their FBI fingerprint background checks by sending a request to the care provider organization where the minor you are sponsoring currently resides or by sending a request directly to the ORR, Division of Unaccompanied Children's Operations, contact information available at http://www.acf.hhs.gov/programs/orr/programs/unaccompanied_alien_children.htm.

Challenging a FBI Criminal Background Check

If a sponsor or an adult household member believes the FBI criminal background check results are incorrect, he or she may challenge the accuracy or completeness of the information. The sponsor or adult household member may contact the agency that contributed the information the sponsor believes is incorrect. Additional details about obtaining a change, correction, or update of an FBI identification record are set forth in the U.S. Code of Federal Regulations at 28 CFR § 16.34.

Discharge Paperwork


Unaccompanied children are provided with several important documents at the time of their release. It is important to review these documents carefully and to keep them safe. You will receive:

- Verification of Release Form (VRF)
- Immunization records and initial medical screening
- Initial dental exam and any significant dental records
- List of all medications the UC is taking, including dosage and reason plus original prescription
- Name and contact information of medical, mental health, and dental care providers so sponsor and UAC may request additional records if needed
- Educational assessments and records
- Sponsor Care Agreement
- Safety Plan

Your child will come home with a folder of documents. Keep these papers safe! You will need them for the child's school enrollment, court, and doctor's visits, and more.

Verification of Release Form (VRF)

This form is an official U.S. Department of Health and Human Services (HHS) form, issued by HHS's Office of Refugee Resettlement (ORR), and should be considered evidence that the sponsor has custody of the child, the child resides with the sponsor at the address reflected, and the age of the child. Although schools, school districts, and other units of government should not ask for this VRF form and sponsors are not required to submit it to a school or other unit of government, sponsors may choose to voluntarily present this form to a school or other unit of government. If presented, schools and other units of government should accept this form as one appropriate means for establishing proof of identity, residency, and/or age for purposes of enrolling a child in school. The VRF looks like this:



U.S. Department of Health and Human Services

Office of Refugee Resettlement
Verification of Release, Rev. 05/29/2015

OFFICE OF REFUGEE RESETTLEMENT
Division of Children's Services
VERIFICATION OF RELEASE

Name of Minor: Fake user Fake test

Minor's Date of Birth: 01/01/1991

Aliases (if any):

Minor's A#: 111111114A




Photo of Minor

The Office of Refugee Resettlement (ORR) has released the above named minor from Federal custody pursuant to section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to the care of:

Name of Sponsor:

Aliases (if any):

Address: _____ **Tel#:** _____

City: _____ **State:** _____ **Zip Code:** _____

Relationship to Child:

Acknowledgement of the Sponsor Care Agreement

The above named sponsor has agreed to the provisions set forth in the *Sponsor Care Agreement*, pertaining to the minor's care, safety, and well-being, and the sponsor's responsibility for ensuring the minor's presence at all future proceedings before the Department of Homeland Security and the Department of Justice/Executive Office for Immigration Review (EOIR).

For Internal Use Only

Name ORR care provider	
Facility	
Date	09/10/2015

This official U.S. Department Health and Human Services (HHS) verification of release form, issued by HHS's Office of Refugee Resettlement (ORR), should be considered as evidence that the above named sponsor was given physical custody of the above named minor on the date indicated on this form, and that the above named sponsor agreed to conditions outlined in a sponsor care agreement, including housing the minor at the address reflected on the form. The Verification of Release form also indicates the date of birth of the above named minor, as determined by HHS based on official documents or, in cases involving missing documentation, on other measures to determine probable age.

According to the Department of Education, all children in the United States are entitled to equal access to a public elementary and secondary education, regardless of their or their parents' actual or perceived national origin, citizenship, or immigration status. This includes recently arrived unaccompanied children, who are in immigration proceedings while residing in local communities with a parent, family member, or other appropriate adult sponsor. While residing with a sponsor, these children have a right under federal law to enroll in public elementary and secondary schools in their local communities and to benefit from educational services, as do all children in the U.S.

Department of Education Guidance can be found at: <http://www2.ed.gov/policy/ra/ates/euid/unaccompanied-children-2.pdf>

Medical Records

At the time of release, the child will receive copies of his/her medical records, which are very important to the child's safety and access to services after release. Many families do not qualify for health insurance, and costs for medications and treatment can be expensive. If you do not have health insurance or cannot add the child to your insurance plan, look for low-cost community health care clinics in your community. For assistance finding low-cost health care options, call the ORR National Call Center at 1-800-203-7001.

Prescriptions

The child's medical records will include prescriptions for medicine and instructions for how the child should take the medicine, so this paperwork is very important.

If there are any recommendations to keep the child healthy, like taking certain medicines or going to certain appointments, as a sponsor you are required to make sure the child receives that treatment after they are reunified. Review the medical paperwork carefully to make sure you are completely aware of any medicine or treatment the child should be receiving.

Medical and Mental Health History

The discharge packet may include medical, dental, and mental health examinations, treatment, or tests that were done while the child was in care. When you take the child to the doctor, dentist, counselor, or psychiatrist for check-ups in your community, these records can be helpful to the child's practitioners to understand the child's needs.

Vaccination Records

Pay extra attention to the vaccination record. The vaccination record shows all of the immunizations the child received while in shelter care to help protect them against diseases like measles, hepatitis, and varicella. When you enroll the child in school, the school will request to see this vaccination record as part of the enrollment process. Common vaccinations children receive in ORR care include inoculations against the following dangerous diseases:

- Polio
- MMR
- Hepatitis A
- Hepatitis B
- Varicella
- Pneumococcal
- Meningococcal
- Diphtheria
- Tetanus
- Pertussis

Some diseases require a series of vaccinations to prevent, so the child will need to continue receiving vaccinations from a doctor in your community after their release to protect them from those diseases.

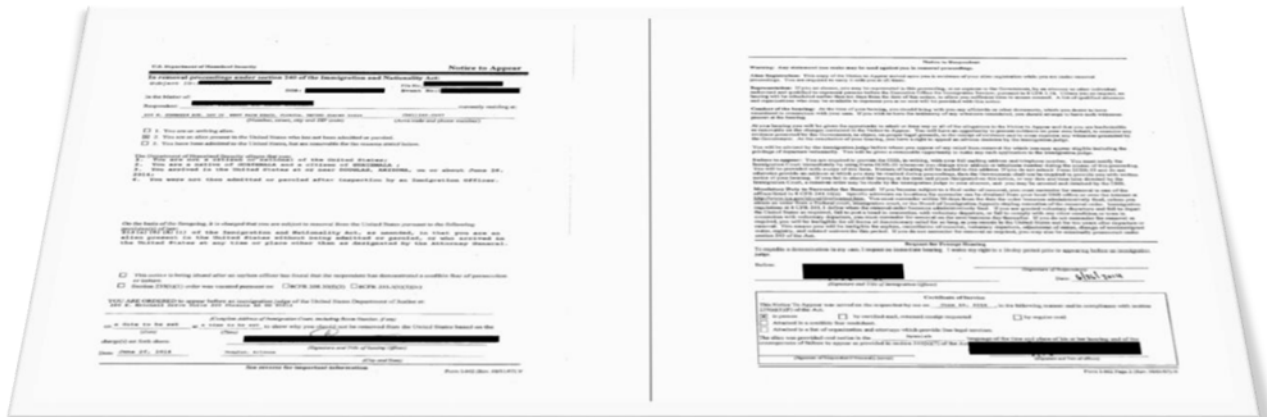
Notice to Appear (NTA)

The child will also receive a document called the Notice to Appear, or NTA. This document demonstrates that the child is required to attend court as part of his/her immigration proceedings.

The NTA has the child's legally filed alien number, date of birth, and name. Even if the information on this form is incorrect, for example, if the child's name is spelled incorrectly, the information on this form is what the government officially has on file for the child. So, when you call to get updates on the child's court status, to ask questions about their case, or to work with

Your child may need to continue a series of vaccinations to keep them safe from certain diseases after they come home. You will need to help the child access medical care to receive those vaccines in your community.

an attorney, they will ask for the information as it is written on the NTA, even if the child's name is incorrectly hyphenated or spelled incorrectly. The NTA looks like this:



Safety Plan

The child will also be released with a document called a "safety plan." This plan is very important for both you and the child. It provides lists of important numbers to call, actions to take in unsafe situations, and warning signs or risks to look out for. Many ORR care providers will also include directions and maps to important resources in your community, like instructions on how to reach the police station if you are in danger. Keep this document handy and make sure your child has immediate access to it. This is an example of what a safety plan may look like:

Sponsor Handbook
[Rev. 05/31/2017]

[10]

OTHER IMPORTANT RESOURCES:
Otros recursos importantes:

***If you need further assistance regarding this resource, other resources, or translation, please contact the Office of Refugee and Resettlement National Helpline at 1-800-203-7001.**
***Si necesita más información o asistencia en cuanto a estos recursos o interpretando por favor contacte la línea de ayuda de Reasentamiento de Refugiados al 1-800-203-7001.**

Individual Counseling/ Family Counseling:
Consejería Individual/ Consejería familiar:

Catholic Charities
10415 Greenbough Dr # 200
Stafford, TX 77477
(281)-207-2350

- Hours of Operation:** Monday-Wednesday and Friday 7:30am-5:30pm
Horas de operación: Lunes-Miércoles y Viernes 7:30am-5:30pm
- Fee:** Sliding scale depending on income. Accept Medicaid and medical insurances.
Tarifa: Depende en sus ingresos. Se acepta Medicaid y aseguranza medica.
- Appointments:** Contact the line (713) 874-6590 to schedule an appointment. Appointment available as of 10/01/2015.
- Cities:** Llame a la línea (713) 874-6590 y para una cita. Cita disponible desde 10/01/2015.
- Language:** Spanish available
Idioma: Español

Parenting Support:
Apoyo Para Padres:

Parenting Classes
4550 Memorial Dr
Houston, TX 77007
(713) 730-2335

- Hours of Operation:** Monday-Friday: 8am-5:30pm
Horas de operación: Lunes - Viernes 7:30am-5:30pm
- Fees:** \$50 for 6 weeks of parenting classes
Tarifas: \$50 por 6 semanas de clases para padres
- Appointments:** Contact the line (713) 730-2335 to schedule an appointment. Appointment available as of 10/01/2015.
- Cities:** Llame a la línea (713) 730-2335 para una cita. Cita disponible desde 10/01/2015.
- Language:** Spanish available
Idioma: Español

NCC Official Use:
Date Referral Received: _____ Date assigned to NCC CM: _____

Nearest Fire Station:
Estación de bomberos más cercana:

Houston Fire Station 51
8902 Bellmare Blvd
Houston, TX 77074
(832) 394-4700

23 min
12 miles

The location could have other nearby locations as well.

5900 Blossom St #3002
Houston, TX 77021, US

23 min
12 miles

Diríjete al sur hacia Blossom St.

Diríjete a la derecha con dirección a Blossom St.

Diríjete a la izquierda con dirección a Ruppert St.

Diríjete a la izquierda con dirección a Dunbar St.

Diríjete a la izquierda con dirección a Webb Ave.

Diríjete a la izquierda con dirección a 14th St.

Diríjete a la izquierda con dirección a 16th St.

Diríjete a la izquierda con dirección a 18th St.

Diríjete a la izquierda con dirección a 20th St.

Diríjete a la izquierda con dirección a 22nd St.

Diríjete a la izquierda con dirección a 24th St.

Diríjete a la izquierda con dirección a 26th St.

Diríjete a la izquierda con dirección a 28th St.

Diríjete a la izquierda con dirección a 30th St.

Houston Fire Station 51
8902 Bellmare Blvd Houston, TX 77074. Dirección única.

NCC Official Use:
Date Referral Received: _____ Date assigned to NCC CM: _____

Nearest Hospital:
Hospital más cercano:

Comerstone Hospital of Houston - Bellaire
3314 Dashedwood Dr
Houston, TX 77062
(713) 285-5300

24 horas

- No se requiere tener seguro médico para obtener ayuda
- Cobro: Varían dependiendo de servicio
- Servicios: Se habla español

23 min
12 miles

The location could have other nearby locations as well.

5900 Blossom St #3002
Houston, TX 77021, US

23 min
12 miles

Diríjete al sur hacia Blossom St.

Diríjete a la izquierda con dirección a Blossom St.

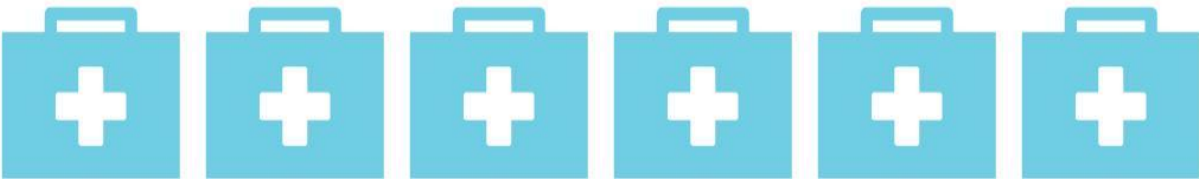
Diríjete a la izquierda con dirección a Channing Rock Rd.

Diríjete a la derecha con dirección a Dashedwood St.

El destino está a la izquierda.

Comerstone Hospital of Houston - Bellaire
3314 Dashedwood Dr Houston, TX 77062. Dirección única.

NCC Official Use:
Date Referral Received: _____ Date assigned to NCC CM: _____



Sponsor Care Agreement

This two-page document details the specific expectations for all sponsors. Make sure to read this document carefully. By moving forward with sponsoring an unaccompanied child, you are agreeing to abide by the expectations outlined in this document.



ADMINISTRATION FOR
CHILDREN & FAMILIES
Office of Refugee Resettlement

Division of Unaccompanied Children Operations **Sponsor Care Agreement**

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 (6 U.S.C. §279) and Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. §1232). 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 <https://www.justice.gov/eoir/office-chief-immigration-judge-0>. 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.

Sponsor Care Agreement Office of Refugee Resettlement

- 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 1-866-341-2423.
- 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 the ORR National Call Center 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.

Key components of the Sponsor Care Agreement are discussed in greater detail throughout this handbook. For example:

- Providing 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 – page 20
- Establishing legal guardianship with your local court within a reasonable time – page 28
- Attending a legal orientation program – page 23
- Notifying the local Immigration Court or the Board of Immigration Appeals and the Department of Homeland Security/USCIS within five (5) days of any change of address or phone number of the minor – page 23
- Ensuring the minor’s presence at all future proceedings – page 23
- Ensuring the minor reports to ICE for removal from the United States if an immigration judge issues a removal order or voluntary departure order – page 23
- Notifying authorities 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 – page 23
- Notifying the National Center for Missing and Exploited Children at 1-800-843-5678 if the minor disappears, has been kidnapped, or runs away – page 21
- Notifying 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- page 26
- Contacting ORR at 1-800-203-7001 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 – page 28

Post Release Case Management

For some children, ORR will approve for case management services to continue even after the child has been released to your care. These services are called Post Release Services. If your child has been assigned these services, your agreement to participate in these services can be a requirement for the child to be released. A case manager will visit your home several times to support you and your family, and will meet directly with you and with the child. The case manager will not provide direct monetary support, but they will connect the family with many resources in the community, and will help the family identify solutions if they encounter problems along the way. If you relocate, it is very important to tell your post release case manager, so that they can provide you with direction on filing paperwork, and so that they come to the right address when they come to visit the child.

Children are assigned post release case management services for many reasons, but always because the federal government has determined that these services would be beneficial to help keep the child supported and safe after reunification. Cooperation with post release services will not only help the child, but can be very helpful to the whole family.

Caution: Fraud & Financial Exploitation

It is important for sponsors and family members to know that there are criminals who target families of children involved in the reunification process. It is unknown how these criminals get information for the children's families, but it is highly suspected that they are associated with smuggling rings or "guides". These criminals commonly ask sponsors/family for money in order to have the children released to family, that say that there is a fee for the reunification process, or say that the money will be used to cover the cost of travel to get the child to the family. This is called financial exploitation because usually these individuals are acting on their own and the money requested is not being used for what they claim.



There are **NO FEES** associated with the processing or reunification of children in ORR care. No one should contact you and ask you for money, your bank account information, your credit card number, or ask you to send payment or money order to another person or account.

When the time comes to have the child released from a shelter or foster home, you will have to make flight arrangements for the child and possibly an escort if the child is younger than 14 years old. Travel costs should **ONLY** be paid directly to company, an airline, or care provider facility. No one should ask you to pay travel costs to a certain person or personal account.

Furthermore, if you are being requested to make payment for fees or expenses related to the processing, reunification, or travel of a child please contact ORR National Call Center at 1-800-203-7001 for assistance. You should view the request with extreme caution and follow these best practices, as recommended by the Federal Bureau of investigations (FBI):

- Be skeptical of individuals representing themselves as officials and asking for payments or donations door-to-door, via phone, mail, e-mail, or social networking sites.
- Be skeptical of individuals requesting payment or contributions by courier or wire, or those who request your bank account or credit card number.
- Verify the legitimacy of the government agency or non-profit organization by utilizing various Internet-based resources which may confirm the correct phone number, e-mail, and/or the group's existence and its non-profit status rather than following a link to an e-mailed site.
- Call the official telephone number of the government agency seeking money to ensure the request for payment is legitimate.
- Do not respond to any unsolicited (spam) incoming e-mails. Do not click links contained within those messages.
- Be cautious of e-mails that claim to show pictures of intended recipients in attached files which may contain viruses. Only open attachments from known senders.
- Make contributions directly to known organizations rather than having others make the donation on your behalf to ensure contributions are received and used for intended purposes.
- Do not give your personal or financial information to anyone who seeks payment or solicits contributions. Providing such information may compromise your identity and make you vulnerable to identity theft.

WARNING

PROTECT YOURSELF FROM CRIMINALS TARGETING FAMILIES OF UNACCOMPANIED CHILDREN

There are criminals who target relatives of unaccompanied children entering the United States by demanding money from sponsors and/or family members, claiming the money will cover processing, reunification, and travel expenses needed to allow the children to be reunited with their families.

Fees for Processing or Reunification

There are no fees associated with the processing or reunification of an unaccompanied child. You do not need to pay money. No one should contact you and ask you for money, your bank account number, your credit card number, or ask you to send payment or a money order to another person or account.

Fees for Travel

You are responsible for the cost of your child's transportation and, if the care provider is escorting the child, for the care provider's transportation or airfare. If an airline escort is used, you are responsible for paying the airline's unaccompanied minor service fee. Travel costs should only be paid directly to a company, usually the airline or the care provider facility. No one should ask you to pay travel costs to an individual or to a personal account.

THESE ARE ILLEGAL ATTEMPTS TO STEAL YOUR MONEY. IF YOU ARE CONTACTED AND ASKED FOR FEES, OR ASKED TO PAY OR WIRE MONEY, PLEASE IMMEDIATELY CALL THE ORR NATIONAL CALL CENTER HELP LINE.

ORR National Call Center (800) 203-7001

Anyone who is requested to make payment for fees or expenses related to the processing, reunification, or travel of unaccompanied children should view such a request with extreme caution and follow these best practices, as recommended by the Federal Bureau of Investigations (FBI):

- Be skeptical of individuals representing themselves as officials and asking for payments or donations door-to-door, via phone, mail, e-mail, or social networking sites.
- Be skeptical of individuals requesting payment or contributions by courier or wire, or those who request your bank account or credit card number.
- Verify the legitimacy of the government agency or non-profit organization by utilizing various Internet-based resources which may confirm the correct phone number, e-mail, and/or the group's existence and its non-profit status rather than following a link to an e-mailed site.
- Call the official telephone number of the government agency seeking money to ensure the request for payment is legitimate.
- Do not respond to any unsolicited (spam) incoming e-mails. Do not click links contained within those messages.
- Be cautious of e-mails that claim to show pictures of intended recipients in attached files which may contain viruses. Only open attachments from known senders.
- Make contributions directly to known organizations rather than having others make the donation on your behalf to ensure contributions are received and used for intended purposes.
- Do not give your personal or financial information to anyone who seeks payment or solicits contributions. Providing such information may compromise your identity and make you vulnerable to identity theft.

Fraud Warning, 03/09/2016
ORR UC/FRP-12

Child Rights in Care vs. After Release

Just as a child's safety is protected while in ORR care, a child has rights when they are released to you. As the sponsor, you will be legally responsible for ensuring the child's rights are protected when they are released to your care. Some of the most important rights include:

Right to Education

Children are required to attend school up to a certain age (16, 17, or 18 years old, depending on the state you live in) and generally may attend regular public school until they complete high school or reach the eldest eligible age (19, 20, or 21 depending on the state you live in). You can find details on compulsory ages where children must be attending school in your state at this website: <http://www.ncsl.org/research/education/upper-compulsory-school-age.aspx>

You are required to enroll the child in school immediately after reunification. If the child is of an age where school attendance is required in your state and you do not enroll the child, this can be considered Child Neglect.

You must help the child to enroll in school immediately following family reunification. A good first step to enroll your child is to call or visit your local school to set up an appointment. They will tell you what documents they require for enrollment, and what the process looks like. For assistance enrolling, you can contact the ORR National Call Center at 1-800-203-7001.

Not only is education required for children in the United States, but school attendance can affect an unaccompanied child's case in court. Sponsors are legally responsible for making sure the child is successfully enrolled in school and that the child consistently goes to class. For teenagers and youth who are about to turn 18, they may have the option to enroll in a General Education Diploma (GED) program. This program can help youth receive credit for finishing high school. For teenagers and youth about to turn 18, this may meet their educational requirements.

To enroll in public school, you will likely need to show the child's age, where the child is living in the school district, and records of vaccinations/immunity. Schools typically accept any of a variety of documents to show age, including:



- Religious document, like a baptism certificate
- Hospital paperwork
- Physician's certificate showing date of birth
- An adoption record
- An affidavit from a parent
- A birth certificate
- Previously verified school records

Examples of documents schools typically accept to show residency include:

- Copies of phone and water bills
- Lease agreements
- Affidavits

If the sponsor is unable to produce a document establishing the child's residence, the child still has a right under Federal law to enroll immediately in school.

Schools might ask you for additional information about the child's past educational history, nationality, language(s) spoken at home, and your household income. This additional information is usually collected to help determine what educational assistance and services the child may need. This information may also help the school place the child in appropriate grade and courses. Schools must let children enroll in school, even if you do not, or cannot give any of this additional information. Schools are required to identify children who may not be able to speak, read, write or understand English so that they can teach English as well as other subjects. Schools are also required to identify and evaluate children (ages 3 to 21) who may have mental or physical disabilities in order to provide regular or special education and services to meet their needs. Schools are prohibited from using this additional information to discriminate against you or the child. Schools are prohibited from discriminating against you or the child based on race, color, national origin, religion, gender, sexual orientation, disability, citizenship, or immigration status.

In most states, children can be enrolled in school past the age of 18. You can check to see the oldest age you can enroll a child in public school at this website:

<http://www.childtrends.org/?indicators=high-school-dropout-rates>

It can also be helpful to ask what social work or counseling staff they have at the school. Ask for your child to have a meeting with the school social worker or counselor. The transition to a new school can be very difficult for a child, so arranging supports early on can help make the child feel more comfortable.



Children have the right to access public school, even if they do not have status yet, but sometimes this gets confusing at enrollment. If you have any difficulty getting the child enrolled, you can call the ORR National Call Center at 1-800-203-7001 and a case manager will help you work with the school to get the child enrolled.

Information about enrolling your child in a GED program can be found here:



[http://study.com/article_directory/Articles about the GED \(by State\).html](http://study.com/article_directory/Articles_about_the_GED_(by_State).html)

[http://learningpath.org/article_directory/GED Info by State.html](http://learningpath.org/article_directory/GED_Info_by_State.html)

Truancy

When a child refuses to go to school and skips class, this is called "truancy." Because education is a legal requirement, both sponsors and children need to comply with the child's school attendance. If the child misses too many days at school, the child may have to go to truancy court, or the sponsor may have to pay fines.

If a child is refusing to go to school, there may be many reasons why. Unaccompanied children sometimes are bullied by other children at school, they may get frustrated with trying to study in English, or they may feel overwhelmed. If your child is refusing to go to school, try to figure out why, and talk to the school to help support the child to attend. Children have the right to go to school, and as a sponsor, you have the right to advocate for your child. If you or your child want to talk about challenges at school and think about ideas to increase school attendance, you can call the ORR National Call Center for support.

Right to Physical Well-Being

Child abuse and neglect laws differ between every state, but no matter where you are in the United States, as the child's sponsor, you are held legally responsible for protecting the child's physical and emotional well-being. Children are considered "children" until they turn 18.

Physical harm to a child is never permitted in the United States, even as a form of discipline. Adults may never hit, kick or otherwise harm the children in their care. All caregivers, including sponsors, must also take precautions to ensure other people do not harm the children in their care.

Provision of Basic Needs

The sponsor must provide the children in their care with adequate food, shelter, clothing, medical care, and supervision. Caregivers are never permitted to deny a child basic food and water as punishment, and they may never force the child to leave their home. The sponsor must also ensure the child has adequate clothing to keep them safe and healthy, including sweaters and coats for cold weather. Sponsors are never permitted to force a child to work for these basic needs.

You may never threaten or harm the child in your care, including withholding food or water as a form of punishment.

Children may not be forced to pay for their food, their room, or rent in your home. Children may never be forced to leave the home to make it on their own.

Sponsors are required to ensure the children in their care receive medical care. This ranges from basic check-ups and regular vaccinations to medical attention for an injury or illness as needed. This also applies to psychiatric medications. If a child is prescribed necessary medications to keep him safe, sponsors are required to make sure the child gets the medicine he/she needs. Medical care can get expensive, and there are often supports in many locations that can help with medical costs. To identify low-cost medical services in your area, call the ORR National Call Center at 1-800-203-7001.

Adequate Adult Supervision

Sponsors must also keep children safe by making sure they have adequate adult supervision. States have different rules about this, but overall, children may not be left at home unattended,

and should not be left alone caring for other children. In the states that allow teenagers to be at home without an adult, they still require that the child is prepared to protect himself. So, if your state allows you to leave the child at home, the child needs to know important information, like how to escape if there is a fire, what to do if a stranger knocks on the door, or who to call in an emergency.

For example, you can put together a plan with your child in writing, and keep the plan on your refrigerator for easy access. The plan could include:

My sponsor's phone number:

Neighbor/nearby family's phone number:

If I am in immediate danger, I can call 911.

If there is a fire, I can get outside by _____ and going to _____ to call 911.

If someone comes to the door, I will not let them in.

If I get injured, I can call 911.

I will not use the stove when I am home alone.

Part of supervision requirements include knowing where the child is when they are not at home. If the child runs away, this must be reported to police. Police will come to your home to interview you and get information to try to find the child to make sure he/she is safe. As a sponsor, failure to report a runaway is in some states a criminal act. For help reporting that a child has left your care, or if you are afraid that the child might run away, you can call the ORR National Call Center for support at 1-800-203-7001.

The National Center for Missing and Exploited Children (NCMEC) is a great resource for reporting your child missing, and NCMEC will keep this information in a centralized database to communicate with law enforcement nationally. To report your child missing to NCMEC, call 1-800-843-5678.

Right to Emotional Well-Being

Sponsors are also required to protect a child's emotional well-being. In the United States, adults may not threaten a child with harm. Sponsors also may not insult or emotionally reject children.

An example of this could include a sponsor telling a child he is unwanted or unwelcome in his home. These kinds of behaviors are considered emotional abuse, and there are state regulations that prohibit it.

Protecting Children from Themselves

Sponsors must provide a safe and supportive home, where the child is included in family activities. If a child is struggling with an emotional problem and might hurt himself, sponsors are also required to make sure the child gets help from a professional to keep him safe. This could include taking the child to the Emergency Room at your local hospital.



Specific self-harming behaviors to look out for include a child cutting, scraping, burning, or otherwise intentionally hurting himself. Children may try to hide this behavior, and may try to cover arms and legs or lock themselves in rooms while they are self-harming. This topic is further explored on page 27.

Protecting Children from Inappropriate Romantic Relationships

As a general rule, adults (over 18) may not engage in romantic or sexual relationships with children (under 18). Every state has specific laws about these relationships.

One very common and dangerous threat to a child's physical AND emotional well-being is an unsafe romantic relationship. In the United States, children cannot be in a romantic relationship with an adult. Each state has very specific laws preventing these relationships, but the general rules are that children (under 18) may not be in romantic relationships with adults (18 years old or more). Even if the child is not

having sex with their adult partner, if there is any sort of sexual touching, sexual communication, or sexual photographs, this is a crime in the United States. It is still a crime even if the interactions occur on social media, like Facebook. The adult partner in the relationship may face very serious legal consequences for being part of any kind of sexual activity with a child, including fines, jail time, and a permanent, publicly visible criminal record that may make it difficult to secure employment.

Reporting Child Abuse and Neglect

The failure to protect a child's physical or emotional well-being is called child abuse and neglect. As a sponsor, you are not only required to follow the rules outlined above, but you are also required to protect the child from any other person who might cause physical or emotional harm to the child. If a sponsor knows that a child in his care is being harmed and does not

report it to authorities, the sponsor's failure to report may also be considered neglect. To report abuse or neglect, you can call your local Child Protective Services number or your local police. These numbers are available at www.childhelp.org.

If you need help reporting abuse, identifying the best local phone numbers to call, or finding solutions, you can call the ORR National Call Center for support at 1-800-203-7001.

You may also call Childhelp to report child abuse and neglect at 1-800-422-4453.

To report human trafficking, call the National Human Trafficking Resource Center (NHRTC) at 1-888-373-7888.



Right to Go to Court

Sponsors must take the search for an attorney for their child very seriously, and ensure that the child has every opportunity to meet with the attorney in preparation for court. Thousands of unaccompanied children every year are determined by the court to be legally allowed to stay in the United States, which allows children to grow up under U.S. protections, without the constant fear of being deported. You can get legal assistance, or help finding local, low-cost attorneys, by calling the Legal Orientation Program for Custodians (LOPC) hotline at 1-888-996-3848.

You are required to make arrangements to ensure an adult takes the child to court when the court date is scheduled. An attorney can help your child's case.

As a sponsor, one of the most important requirements of sponsorship is to make sure the child gets to court for their court date. Sponsors do not have to personally take the child to court, but they must make dependable arrangements to ensure the child attends his/her hearing. If a child does not attend, in many cases, courts will automatically issue a deportation order, so it is very, very important that the child attends. If the court issues the child a deportation order, sponsors are responsible for ensuring the child reports to ICE for removal from the United States.

As a sponsor you are required to keep the courts updated on the child's location, so that the child can attend court in the area where they reside. A child's relocation must be reported. To update the courts on a child's changed address, you will need to complete a Change of Address (COA) form and a Change of Venue (COV) form. The ORR National Call Center can help you complete these forms and determine where to mail them. To check on your child's court date, you can call the Immigration Hotline at 1-800-898-7180 to get regular updates.

DO YOU HAVE QUESTIONS ABOUT THE IMMIGRATION COURT PROCESS AND HOW IT AFFECTS YOUR CHILD?

The Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC) offers free legal information about:

- 1) The immigration court process;
- 2) How to obtain social services and free legal counsel; and
- 3) How to protect your child from mistreatment, exploitation, and trafficking.



The organizations below can answer many of your questions.

Atlanta, GA – Catholic Charities: (678) 222-3932

Boston, MA – Catholic Charities: (617) 464-8100

Charlotte, NC – Legal Services of Southern Piedmont: (704) 971-2577

Dallas, TX – Catholic Charities: (214) 634-7182; ext. 243

Harlingen, TX – ProBAR: (956) 365-3775

Houston, TX – Catholic Charities: (713) 595-4169

Long Island, NY – Catholic Charities: (631) 789-5225

Los Angeles, CA – Esperanza Immigrant Rights Project:
(213) 251-3589

Memphis, TN – Mid-South Immigration Advocates: (901) 466-8819

Miami, FL – Catholic Charities: (305) 373-1073; ext. 219

New York City, NY – Catholic Charities: (212) 419-3710

Newark, NJ – Catholic Charities: (973) 733-3516, ext. 206

San Francisco, CA – Immigration Center for Women and Children: (415) 861-1449, ext. 307

Washington, DC; Baltimore, MD; and Arlington, VA – Catholic Charities: (202) 465-9245



Please call the organization closest to where you live to get help. You can also contact the
LOPC CALL CENTER FOR UNACCOMPANIED IMMIGRANT MINORS
at **(888) 996-3848** or at LOPC.CallCenter@archnv.org
to schedule an appointment to receive more detailed information.

Working and Human Trafficking

Unaccompanied children are not authorized to work while they wait for their court date. Since unaccompanied children are not legally able to work, if they choose to work, the jobs available to them may be low-paying or dangerous. There are very strict rules in the United States about any child working in certain low-wage or dangerous jobs. If a child works in conditions that the Department of Labor says are unsafe or exploitative, this may be considered human trafficking, even if the child appears to agree to work. This includes any kind of work that is sexual in nature,

The child may never be forced to work or be threatened in order to work. The child may not be forced to repay his or his family's debts. This could be considered human trafficking, which is a very serious crime in the United States.

like prostitution, stripping, escorting, or posing for photographs nude or in underwear. An adult who is part of trafficking a child can be prosecuted in federal court, with very severe consequences if found guilty.

More information about children, youth, and work regulations in the United States can be explored at <https://www.osha.gov/youngworkers/employers.html>.

No one is permitted to force an unaccompanied child to work in the United States, even if there is a debt. No sponsor is permitted to require a child to work to repay his or his family's debt or pay for room and board.

Forcing, scaring, threatening, or tricking a child to work is also human trafficking. This means physically forcing a child to work is never permitted, but that also it is a federal crime to convince a child to work by threatening to kick him out of the home, report him to immigration or police, take revenge on the child's family in home country, or other threats. Each of these actions could be considered human trafficking, which is a very serious crime in the United States.

Unaccompanied children may be vulnerable to trafficking. Sometimes children or their families may owe funds for travel. Paying back those funds may not always be easy, and the child or their families may feel threatened or coerced into working to pay back the money owed. For an underage child in the U.S. who cannot work legally, being forced to work, not attending school in order to work, and working for no pay (working for a place to sleep or food) could all be considered human trafficking. Unaccompanied children may have made the trip to the U.S. to support their families in home country, or to help their families in the U.S., and may feel they need to work to provide for those family members. The need to make monies quickly may make them susceptible to traffickers, who are very good at convincing them it is necessary.

Unaccompanied children may be exposed to sex trafficking due to an attempt to develop a sense of belonging, perhaps seeking affection from older parental figures, or due to emotional issues related to attachment. In the U.S. it is illegal for underage children and adults to have relationships, which may be different from what is accepted in their home country.

This cultural difference may make children think initially that it is okay, when it is not. Sponsors who encourage or allow trafficking events to occur while they are responsible for the care of the child may be engaging in illegal activity.

If a sponsor or child receives contact from any individual(s) believed to represent an alien smuggling syndicate, organized crime, or a human trafficking organization, sponsors should report this to ICE immediately. For assistance reporting, you can contact the ORR National Call Center at 1-800-203-7001.

Right to Equal Protection

Around the world, there are millions of people who identify as LGBTQI: Lesbian, Gay, Bisexual, Questioning, or Intersex. There are many unaccompanied children who identify this way, and they are protected in the United States in the same way every child is protected. This means the child's physical and emotional well-being must be protected in your care.

Talking about sexuality and gender identity can be very difficult for children and needs to be a safe conversation in your home. Take care not to share your child's sexuality or gender identity without his/her permission. That is his/her information to share. If you are uncomfortable or unsure about discussing gender identity with the child and supporting him/her, call the ORR National Call Center for local resources to help you best support the child.

A LGBTQI child has the same equally protected rights as child who is not. Public schools are legally required to protect all students from harassment. Under the U.S. Constitution, these schools must address any harassment against LGBTQI children the same way they would address harassment against any other student. Public schools cannot ignore harassment or bullying based on appearance or behavior that does not "match" a child's gender: boys who wear makeup, girls who dress "like a boy," or students who are transgender. School officials cannot tell a child that they have to change who they are or that they brought the harassment on to themselves by dressing or behaving "inappropriately." If your child is being harassed or bullied in school, you should report it immediately to a school official. They have a legal responsibility to respond.

If your child identifies as LGBTQI, these resources may be helpful:

Children who identify as lesbian, gay, bisexual, questioning, or intersex are provided equal protection as all other children in the United States.



www.healthychildren.org/

www.ambientejuven.org

Trevor Helpline Crisis Intervention for LGBT Youth

1.800.850.8078

24 hours a day, seven days a week

GLNH: Gay & Lesbian National Hotline

1.888.843.4564 (THE GLNH)

Monday - Friday, 6:00 PM-11:00 PM Eastern Time

The ORR National Call Center is also available to help you identify resources in your community at 1-800-203-7001.



Domestic Violence

You or someone in your home may already be experiencing a domestically violent relationship. This kind of relationship could be between spouses, siblings, or anyone who harms or threatens one another in the home. Domestic violence includes physical harm, emotional degradation, and the threat of harm. If you are experiencing domestic violence, there are a few things you may want to consider:

Domestic violence, even if the child is never physically harmed, can have an enormous impact on a child's development, their sense of safety, and their well-being. Children may try to stop violence in the home, putting themselves in harm's way. If you are considering sponsoring a child and there is already violence in your home, think carefully about the child's safety.

If someone in your home is harming you, there are safe places you can go. If you are in immediate danger, call 911. Police will come to help protect you, even if you don't have status.

Domestic violence does not tend to just go away. Abusers often need very comprehensive counseling support before their behaviors change permanently, if they ever do, and this can take a very long time.

Bringing a child into the home is increased responsibility and can be added stress for all members in the home. If the home already has violence, the reunification of a child into the home may make the violence worse.

You have options. If there is violence in your home, when you are ready to leave, there are safe places you can go. Call the **National Domestic Violence Hotline** at 1-800-799-7233 to talk through your options and plan for your safety. You can also visit their website at www.thehotline.org. If you are ever in immediate danger, you can call 911, and police will help you even if you do not have status.

Pursuing Legal Guardianship

Sponsors who are not the child’s mother or father may want to consider pursuing legal guardianship of the child. Legal guardianship gives sponsors many of the same rights that a biological parent has to the child. For example, legal guardianship allows the sponsor to make important decisions on behalf of the child, such as agreeing to medical care or allowing marriage. Legal guardians can also claim children on their tax forms as a deduction. A family law attorney can help you pursue legal guardianship of the child in your care, and this attorney is often different from the attorney who may help the child with his/her immigration case. You can call the ORR National Call Center to help you locate family attorneys in your area.

Sponsors who are not the child’s parent and who are struggling to care for a child may contact the ORR National Call Center for assistance, at 1-800-203-7001.

Resources for Individuals Pursuing Guardianship

BRYCS - Bridging Refugee Youth and Children's Services
United States Conference of Catholic Bishops
3211 Fourth Street NE
Washington, DC 20017

<http://www.brycs.org/guardianship/guardianship-information-by-state.cfm>



When a Child Comes Home

Every child and every family is different. Sponsorship can be a very rewarding experience, and many families report feeling fulfilled and relieved to be surrounded by their loved ones. There are some trends that many families experience, which may help to prepare you prior to your child’s reunification.

“Honeymoon” Period

When an unaccompanied child first arrives at his sponsor’s home, sometimes they might experience a “honeymoon” period. This refers to a period of time, which may be days, weeks, or months, when the child is new to the home and is on his/her best behavior. The child may be excited to be in a new place, not sure what the rules are, and eager to make a good impression. After a while, the child’s behavior may begin to change as he/she gets more comfortable, and may begin to test the rules as any teenager does. It can be distressing for a sponsor to see the child’s behavior change, but this is a normal experience for children after reunification.

Financial Challenges

Caring for another person can be very expensive, especially teenagers. Many families feel the financial impact when a child reunifies to their home, and it can be difficult to manage expenses, especially for the first few months. As soon as you can, plan out your budget, including expenditures and savings, and stick to it. Most communities have many resources that can



relieve some of your expenses, like food banks, low-cost clothing stores, and free medical clinics. If you need help strategizing on your budget or finding resources in your community, you can contact the ORR National Call Center for support at 1-800-203-7001.

Difficulty Adapting

By the time a child gets to your home, they have been through a lot of changes very quickly. They may have experienced difficult things in their home country, they may have had a dangerous and frightening journey, they may have been detained suddenly by U.S. authorities, and then had to get used to living with many other children they have never met before in a shelter setting. Starting over in your home is one change in a series of many, life-changing events, and it can be a lot to take in for a child.

Once a child is in your home, the child has many new things to learn: house rules, new people, new customs, new culture, and a new language. One of the hardest things for a child to learn is how exactly they fit into a family. Especially for children reunifying with a parent, sibling rivalry can be extremely challenging for an unaccompanied child. Children may compete for their parents' love or attention, or they may feel unclear whether they are loved at all.

If someone in your home is harming you, there are safe places you can go. If you are in immediate danger, call 911. Police will come to help protect you, even if you don't have status.

Take Deliberate Action to Help the Child Feel like he “Belongs”

One of the most common experiences unaccompanied children have after reunification is the feeling that they do not “belong.” Children often report that they feel like a burden on their sponsors, that they are not really part of the family, or that their sponsors do not care about them. Often, these are the same children who eventually run away or run into behavioral problems. As a sponsor, plan to be very clear and verbal about wanting the child in your home and being glad that they are there. The child needs to hear it, repeatedly, consistently, even if their behavior is becoming a challenge. Never talk about sending a child back to their home country as a form of punishment, or indicate that you wish they had not made the journey. This is deeply hurtful for the child, and it may be very hard for you to regain the child’s trust after saying something like that.



Pay extra attention to making sure the child is included in family activities, and that they are treated with equal affection and attention as any other children in the home. It might not seem like a big deal to you, but they will be very, very aware of how they are treated compared to others. Set aside quality time to spend with the child, just you two, to keep building on your relationship and help the child to feel special. Quality time doesn’t have to be anything well-planned or expensive, it could be something as simple as grocery shopping or going for a walk around the neighborhood. When a child is struggling to adapt to a new environment, these moments with you can be very meaningful and important for the child.

Pay Attention to the Child’s Friends and Romantic Relationships

Also pay attention to who the child builds friendships and relationships with. Unaccompanied children will be very eager to find a place to belong, so they feel like they are wanted in this new, overwhelming environment. The child may get a group of friends or a romantic partner very quickly, to have stability and feel better about all of the changes. This can be a good thing, but it can also be dangerous.

Talk to Your Teen about Making Safe Sexual Decisions

For older children and teens, boyfriends and girlfriends are especially important for the sponsor to monitor. When they first arrive, children do not yet have large social networks (groups of

friends or peers) to protect them, they may be unsure of themselves, and they may be eager to fit in – this makes them more susceptible to an abusive or unsafe relationship, or to having sex in a relationship before they are ready. It might also make them more likely to send text messages or online messages with inappropriate photographs of themselves. Talk to your child about making safe sexual decisions, like never taking nude photos, never texting sexual content, abstaining from sex, waiting to have sex until they are ready, and using protection when they do eventually have sex. It is also important to talk to the child about the importance of setting boundaries with their partners to avoid violence in relationships. Reassure them it is never acceptable for their partner to intentionally hurt their feelings, or to hurt them physically. If you open the door early on for the child to talk to you about relationships and sex, it will make the conversation much easier for the child when they want your guidance down the line.

Your Child's Use of the Internet and Social Media

Monitor your child's use of the internet and social media. Children may meet strangers this way, and this can be dangerous.

Many unaccompanied children find romantic partners online, through Facebook or other social media. The danger with these relationships is that it's hard to know who the child is really talking to, or whether you can trust their online boyfriend or girlfriend is who they say they are. It is not uncommon for children to fall into trafficking or abusive relationships online. Chatting online can lead to children being convinced by their online partner to run

away or get into trouble, or could even put your family in danger.

One of the best ways to monitor your child's use of the internet is to join social media yourself. If you join too, it gives you the chance to "friend" your child and see their profile, who their friends are, and what kind of communication they may be have publicly. If you have a computer at home, make sure it is set up in a public area of the house, so that you can see how it is being used. Set up rules about how frequently you will check their accounts online, or how often you will check their cell phone.

Common social media outlets include Facebook, Twitter, Instagram, Whatsapp, Tumblr, Snapchat, Vine, Tinder and many others. Be aware of what social media tools your child is using, and be proactive about monitoring your child's use of these tools. Make sure they do not indicate their location on social media websites or "check in" to specific addresses, so that it is not easy for a dangerous person to find them.



Trends Based on a Sponsor's Relationship with the Child

Some of the trends we see are specific to the type of relationship the child has to their sponsor. Whether a child is reunifying with a mother, a brother, a cousin, or a family friend can impact what some of the challenges might look like once the child comes home.

For Sponsors who are Parents

For sponsors who are the mother or father of the unaccompanied child, you might experience that the child is really upset about you leaving to the U.S., even though you left to help the family. It's a confusing emotion – the child may understand logically why you left, but the heart doesn't always think logically. It might also be hard for you – leaving wasn't easy, and it's hard as a parent to see your child push you away. As the adult, you need to do everything you can to communicate to the child that they are loved. You need to make sure any fears you have of rejection don't get in the way of consistent, loving attention, even if you keep getting pushed

For parents, you and your child will need to learn how to be together again as a family. The love is there, it just takes time and communication to get comfortable.

away. The more consistently loving you can be, the easier it will be for the child to trust that you still love him. This is especially relevant if you have had other children since you came to the United States, or if you have spent more time in recent years with other children in the home. Your child will have a lot of adapting to do, and it might hurt him to see the other children in the home already comfortable with you. He/she might feel jealous of them, or worry that you love them less, and the other kids might feel

territorial or jealous too. Be very sensitive to this fear, and do everything you can to show that you love your child just as much as any other kids in the home. Make sure you talk to your family to prepare them before he comes to your home, and make clear that you expect all household members to warmly invite the child into the family.

It also might be hard because you have a certain memory of what the child was like back in home country, and the child has a memory of you too. People change over time, and their personalities get shaped by their experiences. You'll see behaviors you don't recognize in your child, and your child might feel overwhelmed when the dream he has had about what the U.S. will be like isn't very accurate. Be supportive and consistent, and remember that the child is a product of his past and didn't become a "bad" kid. You can help change problem behaviors by giving him the new experiences he needs to change over time. The ORR National Call Center is available to support you with parenting challenges and to link you with local resources if you run into problems.

For Sponsors who are Family Members

For family members who are not the mother or father of the child, it can be difficult to care for a family member's child, because the way their mom or dad parents might be different from the way that you do. If it's safe, it can be helpful to facilitate communication between the child and his parents. Reach out to the child's parents for their advice on how to handle certain behaviors, what they see as working best with the child, and their thoughts on how you can be most supportive for him. The bottom line is that while the child is in the U.S., he/she is under your care, so you ultimately need to make the parenting decisions for the child. Relatives often see just the favorable, well-behaved side of children, and might not see the deep-down behaviors that parents see. You will see a wide range of behaviors, including negative behaviors, once the child comes home and gets comfortable, and you'll need to be consistent, kind, and responsible with the child no matter what new or challenging traits they demonstrate. The ORR National Call Center is available to support you with parenting challenges and to link you with local resources if you run into problems.

For family members and family friends, it can be hard to learn how to parent a new child. Remember, as a sponsor, you have agreed to care for this child as a parent would.

For Sponsors who are Family Friends

As a family friend, parenting another person's child can be very difficult. It can be hard to take ownership over such a responsibility. This is what you have agreed to, which means you are far more than just a place for the child to sleep and eat. If it's safe, involve the child's family where you can to help you strategize on parenting, but no matter what, don't take a back seat on parenting the child. He/she is reunifying with you as a child with a caregiver, not as a friend or a roommate. Ultimately, if things go wrong, you are held as accountable for the child as a parent would, because you are his primary caregiver. Your support and commitment to strong parenting will have a drastic effect on the child's success here in the U.S., so taking ownership of the parenting role right away will only help you. The ORR National Call Center is available to support you with parenting challenges and to link you with local resources if you run into problems.

Trauma and Behaviors

Many unaccompanied children have experienced very difficult, sad, or scary things while they were in home country, or on the journey to the United States. These kinds of experiences are described as “traumatic,” when the experience overwhelmed the child’s ability to cope. This does not mean the child has done anything wrong, or that there is anything weak about the child, but that their body is having long-term physical responses to the bad experiences they had before.

Even if your child has told you, it’s possible that he has experienced very difficult things before he arrived into your care. Previous traumatic experiences can have a big, long-term impact on a child’s behavior, and counseling services can help.

Common traumatic experiences that unaccompanied children report include gang violence, sexual abuse, domestic violence, physical abuse, being separated for a long time from parents, and witnessing the death or suffering of people they love.

These kinds of experiences are very hard to talk about, especially for children. Many children have not yet told their sponsors about some of the things that have happened to them. This can be a

hardship in a child’s behavior. eye out for these for you to seek



challenge as a sponsor, because past can have big, every day effects on When the child comes home, keep any behaviors, as they are important signals professional help to support the child.

Self-Harming

Self-harming means a child is purposefully hurting himself, often with repeated injuries that are small and easy to hide. Behaviors may include cutting, burning, head banging, wound picking, hair pulling, severe scratching, deep biting, and bruising. Children may use razor blades, scissors, paper clips, staples, broken glass, erasers, cigarettes, lighters, matches, or other objects to hurt themselves. When children self-harm, they are often doing it as a way to cope with difficult experiences. Cutting is an expression of something much bigger going on inside, and stressful life changes, like reunification, can make the behavior worse.

Self-harming is not uncommon, and it is a difficult habit to break. It is harmful and can lead to much bigger problems down the road, and the eventual risk for serious injury or possible suicide is higher than other children who do not self-harm.

Do not fly off the handle if the child discloses to you that he is hurting himself, or if you find out in another way. Use your judgment – if the injuries are superficial, treat them immediately, and call your supports and your mental health referrals. If the injuries are significant and they might need professional medical treatment, go to the emergency room right away or call 911 for help.

The reasons behind self-harming are very complex and differ for everybody. As a sponsor, you need to be supportive, open, and empathic if the child opens up to you about it, and you need to arrange professional help immediately. The issue is so complex that it needs to be addressed by professionals for the safety of the child.



Thinking about Suicide

The child in your care may tell you that he/she is thinking about dying, or even killing himself. That can be a scary message to hear. If you think the child in your care is about to hurt himself, call 911. Protective authorities will come to your home to help the child regardless of your or your child's immigration status – they respond to 911 calls only to keep people safe. You can also take the child to the closest Emergency Room at your local hospital. Every Emergency Room has staff available to assess people in crisis, and to assess whether your child is an immediate risk to himself.

If a child brings up suicidal thoughts to you, consider the following responses, suggested by the Suicide Prevention Lifeline (www.suicidepreventionlifeline.org):

- Be direct. Talk openly and matter-of-factly about suicide.
- Be willing to listen. Allow expressions of feelings. Accept the feelings.
- Be non-judgmental. Don't debate whether suicide is right or wrong, or whether feelings are good or bad. Don't lecture on the value of life.
- Get involved. Become available. Show interest and support.
- Don't dare him or her to do it.
- Don't act shocked. This will put distance between you.
- Don't be sworn to secrecy. Seek support.
- Offer hope that alternatives are available but do not offer glib reassurance.
- Take action. Remove dangerous objects from your home, like guns or stockpiled pills.
- Get help from persons or agencies specializing in crisis intervention and suicide prevention.

Bedtime Troubles

Children who have a history of traumatic experiences often have nightmares, reliving the terrible things that happened to them. Some children refuse to go to bed and fight bedtime, some struggle to sleep because they are too afraid, and others may wet the bed.

These kinds of problems affect a child's entire day, not just the night. They may struggle to think clearly, have poor school performance, or may be grumpy during the day, since they are never really getting a good night's sleep. It will be hard to help the child adjust to your home when the child's basic need – sleep – is not being met. If you see a child having difficulty with bedtime, professional support can be an enormous help to get rid of nightmares, help the child feel secure enough to sleep, and stop the bed-wetting. Once these stressful and exhausting behaviors go away, the child is likely to do better in school and adapt better to the home.

Nightmares and sleeping problems can be an important sign that your child is struggling and needs help.

Isolation

We often hear about unaccompanied children getting to their sponsor's home, but then wanting to stay alone in their bedroom or refusing to socialize with the family. There may be a lot of reasons for why the child acts this way. A new environment, especially for a traumatized child, can be a very overwhelming experience for a child, even if they already know everyone who lives



in the house. Some children may want to stay alone because they feel sad about something that has happened, others may be very frightened to leave their room or the house. Still others may feel stuck, like they are not yet a part of your family. If you know the reason why the child is isolating himself, this can help you better understand ways to help him feel better. Seeking professional help for the child can help both you and the child better understand what is going on, and can help you come up with really good ideas to support the child and your family.

Eating or Not Eating

Some children, in response to changes, have disruptions in their eating habits. This could mean that they over-eat (feeling hungry and unsatisfied all the time) or under-eat (not want the meals or snacks offered). Typically this will get better within a few days. You can reach out to the ORR National Call Center for additional information if this does not get better. The call center can assist with tips and tricks to encourage healthy eating. You can also have them see your local doctor just to determine they are healthy.

Emotional Outbursts

A child's body experiences big changes after something traumatic happens. In response to that traumatic experience, the body, outside of the child's control, can change the way the muscles move, the heart beats, and the lungs breathe, and this can last for many years or more. The body can react very strongly to something that seems to you like it is very little, or not a big deal.

If a child in your care seems to have really strong emotional outbursts, it is possible they have

Big, frequent emotional outbursts may be the child's body's response to trauma and stress. It can be helped.

had a really difficult past, and their bodies are reacting. The outbursts might look like extreme anger that cannot calm down, or extreme sadness that seems impossible to make better. It can be hard as a sponsor to see your child acting this way, but it is very important that you do not let yourself overreact, too. If a child is having big

emotional outbursts, remember that it is the child's body acting that way, and that no one likes to feel that upset all the time. The good news is that these kinds of outbursts can be helped by a professional, who is trained to help the child regain control of their body. If you need help identifying a professional in your community to help the child control these outbursts, you can call the ORR National Call Center for support at 1-800-203-7001.

Defiance

Sometimes we hear about unaccompanied children refusing to follow the sponsor's rules or listen to what the sponsor has to say. Like emotional outbursts, there are a lot of reasons why a child might act this way. Sometimes, children have had to "act tough" for a long time in their home country to prevent others from harming them. That kind of behavior is hard to change overnight, even if the child is safe in your home.

A child might also break your rules because they know they can make you mad. Children who have experienced a lot of chaos at home, like lots of arguing or fighting between parents or other kids, sometimes try to re-create that chaos wherever they go, because that is what is predictable to them. They may push you, because they can count on you getting mad, and that certainty feels good to them, not the anger itself.

You can probably guess that no matter the reason behind defiance, it can get kids in a lot of trouble. When you remain calm and consistent it can help, but sometimes that's not enough. If you see this happening, it may be helpful to bring in a professional to help the child feel safe enough to lose the tough-guy act, or to learn how to feel normal even when there isn't chaos.

Sexualized Behaviors

Some sexual behaviors in children may be normal for their developmental stage. It becomes a problem when these behaviors impact their everyday lives, hurt the quality of their social relationships, or impact other people. When this happens, usually it means that the child again has had a very difficult past, and this is their body's reaction to it.

If a child in your home is engaging in any level of sexual behavior with others in your home, this can be a big problem. It can be scary for sponsors to see this behavior in the children they care for. It is important to remember that sexualized behavior in children is often a response to what the child has experienced in the past, and does not mean that the child is "bad" or cannot be helped. If you see problematic sexualized behaviors in the child in your care, make sure you have a plan in place to keep each person in the home safe and supervised, and reach out for support for the child to help them overcome the past experiences that are causing them to behave this way. You can reach out to the ORR National Call Center at 1-800-203-7001 to identify local resources to help you support the child.

Sexual Abuse or Sexual Harassment

Some UC may be victims of sexual abuse or harassment. Call the UC Sexual Abuse Hotline at 1-855-232-5393 for assistance with or if you have knowledge of a UC in this situation. If you are an unaccompanied child, a family member, sponsor, legal service provider, child advocate or any other individual with knowledge or suspicion of sexual abuse or sexual harassment occurring at a care provider operating on behalf of the Office of Refugee Resettlement (ORR), the Administration for Children and Families, the U.S. Department of Health and Human Services (HHS).

The Hotline is connected to live representatives who are bilingual in English and Spanish and experienced in interviewing minors. Translators will be provided for all other languages. The hours of operation are 8 a.m.—11:45p.m. EST, seven days a week. Individuals may report anonymously if desired.



Substance Abuse

Sometimes we hear about unaccompanied children using drugs or alcohol. There are many reasons for why a child might be using. Some children might use because it helps them cope with something bad that happened to them in the past. Some children use because they are in a brand new place, are desperate to be accepted and feel like they belong, and they feel more socially accepted when they use substances. Some children may have had to use for various reasons in home country, and have now developed an addiction that is hard to break. Whatever the reason, substance use can be dangerous for children, can cause long term damage to their bodies, or could even result in death. In almost all states in the U.S., the legal drinking age is 21, so if a child gets caught with alcohol, both the child and you can get in a lot of trouble. You can

get in even more trouble if you purchase alcohol or drugs for the child to use. Most drugs in most states are also illegal.

Although there are legal and health problems related to substance use, if your child is using, it is your job as a sponsor to make sure the child has access to help. Be careful not to accuse or blame the child when talking with him about drugs or alcohol. Instead, talk to the child about what your worries are, and try to get an understanding for what specific substances the child is using, when, and with whom. If the child is addicted to a substance, you will need to look for help to support him to stop using. If the use is related to a certain group of friends, rethink your supervision plan with the child, and strategize with the child about ways he can avoid using. A drug and alcohol counselor can help you think of ways to have this discussion, things you can do to protect the child, and places you can take the child to help him stop using. To find a drug and alcohol counselor in your area, contact the ORR National Call Center at 1-800-203-7001.

Bullying

Many unaccompanied children report getting bullied by other children, especially when they first join school. Children tend to pick on children who seem different, and unaccompanied children may dress differently, speak a different language, look different, or have different customs. Bullying can take many forms, from actual physical fighting or harming someone else, to intentionally making someone feel excluded, bad, or ashamed. Sometimes bullying is face to face in or after school, but it could also be by phone, text message, or online. Be careful not to underestimate how upsetting bullying can be for a child. Bullying can cause extreme distress and interfere with a child's daily living, in and out of school. Because it is so harmful for kids, there are laws about bullying and most schools have policies about how they will address it.

If your child is getting bullied, it is very common and encouraged for sponsors to contact the school or even go to the school in person to talk to the principal, teachers, or social workers. They will be required to take steps to protect the child. It might also be helpful for the child to join other positive activities outside of school, including sports, mentoring programs, or counseling. If you need help communicating with the school, advocating for the child, or thinking about ways to help keep the child safe, call the ORR National Call Center for support at 1-800-203-7001.

For more information about bullying, visit www.stopbullying.gov or call 1-800-273-TALK (8255).

Parenting

ORR works with many children and families, before and after reunification. Along the way, we have heard the following parenting tips, which can help make the child's transition easier once he gets home.

Rules and Consistency

Set rules and boundaries from the very beginning, and be very clear about what the expectations are in your house. It can be helpful to set the rules with the child, so that you are setting and agreeing to the expectations together. This sends the message to the child that you respect him, and it gives him the opportunity to discuss with you the reasoning behind the rules. The child is also more likely to follow the rules if he helped come up with them. Stick to your rules, and be as predictable as you can. Kids, especially unaccompanied children, often feel calmer and more under control when they know what behavior you expect from them.

Unaccompanied children have often had a lot of surprises and frightening changes over the last few years. They may get very upset, scared, or feel like they don't belong when routine changes, or when something catches them off guard. Do your best to set a daily routine that you stick to, so that the child can get comfortable with a daily schedule. For example, you might schedule dinner to be every night at 6:00, you might go grocery shopping every Sunday, or the kids might all floss, brush their teeth, and shower every night before bed. These kinds of routines can be very comforting to a child, and can create a sense of calm and belonging in world that is otherwise all brand new and full of surprises.

Encourage the behaviors you want to see

Catch the child doing something right. When you see the child behaving well, provide them specific praise for the action they are doing, in the moment. This can help encourage the child to keep repeating those behaviors, and sets the stage for you to give feedback if the child is breaking the rules. The child is much more likely to listen to the negative feedback if they trust that you also notice all the good things they do. Respect the child's ideas and thoughts. Remember, "I don't agree with you," is very different from "You're wrong."

When your child breaks the rules

Expect that the child will not always follow your rules, and will probably break them pretty often. Think about what you will do in response to problem behaviors.

One technique is to focus on responding to the child, not reacting. This means taking time to think through what is really happening before you address a behavior or problem. It also means making sure your response fits the situation, and isn't too casual or too overblown. Always ask yourself, "What message do I need to send to the child?" "Are my emotions getting in the way of sending the message I want to send?" and "Do I really understand the reasons behind the child's behavior?" Take the time you need to gather your thoughts, and to respond to the child

in the way you really want to. Wasting an opportunity for kind, thoughtful feedback by yelling or saying something you don't mean can set you back a few steps in parenting, and make it harder to enforce rules with the child in the future.

Another technique is to carefully think about whether a child's behavior is actually harming anyone. If the answer is "no," you may want to think about how you respond, and give the child some leeway where it is safe. Do your best to set boundaries on the things that are most important, so that you are picking the battles that are the most meaningful.

Have a plan for appropriate discipline with the child. In the United States, caregivers are never permitted to physically harm the child as a form of punishment, so hurting the child cannot be an option. Think about what kind of limits or restrictions you can set without harming the child, so that when the child misbehaves, you are prepared.

Sometimes, all of the good parenting in the world just doesn't seem to be enough. Recognize when a problem is bigger than you can handle. There is nothing shameful in being smart enough to reach out for help when the child needs it. That's good parenting.

Key Contacts

Emergencies	911
ORR National Call Center	1-800-203-7001
LOPC Hotline	1-888-996-3848
Immigration Hotline	1-800-898-7180
Childhelp National Child Abuse Hotline	1-800-422-4453
National Domestic Violence Hotline	1-800-799-7233
National Center for Missing and Exploited Children	1-800-843-5678
Gay Lesbian Bisexual Transsexual (GLBT) Hotline	1-888-843-4564
National Human Trafficking Resource Center	1-888-373-7888
Stopbullying.gov	1-800-273-8255
UC Sexual Abuse Hotline	1-855-232-5393

Office of Refugee Resettlement National Call Center

HELP LINE 1 (800) 203-7001 | information@ORRNCC.com

Text the word ^{NINOS} NINOS to 66467

FOR CHILDREN

If you are in immediate danger, call 9-1-1

If you experience any of the following, we are here to help:

- Nowhere to sleep
- Someone is forcing you to do something that makes you feel uncomfortable
- Someone is keeping you away from food, shelter, school, or medicine
- Trouble feeling safe and happy
- You are angry or hurting
- Feeling very sad or unwanted
- Family problems
- Kids being mean to you at school
- Difficulty finding help
- Difficulty with court
- Trouble finding your paperwork

For Parents and Sponsors

Looking for a child coming to the United States?

- We will ensure your message gets to the shelter caring for your child



Open 24 hours a day, 7 days a week. Call or text the word ^{NINOS} NINOS to 66467 any time.

Is your child already home? We can help with:

- Finding resources in your community for education, medical care, emotional support, juvenile justice, substance use, legal support and safety
- Assistance with child behavioral issues after reunification, including:
 - Kids running away
 - Kids feeling very sad or angry
 - Involvement with drugs or gangs
 - Inappropriate relationships
 - Kids hurting other kids
 - Kids getting into trouble at school
 - Any behavior that worries you
- Support for you to help strengthen your relationship with your child
- Assistance making sure your child has access to schools and education
- Support with family problems or domestic violence
- Help getting copies of child/immunization records and completing paperwork
- Assistance finding legal support and understanding court processes



1 (800) 203-7001



^{NINOS} Text NINOS to 66467

IF YOU NEED **HELP**, CALL:

1-800-203-7001

ORR National Call Center

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If you experience any of the following, we are here to help:

- Someone is hurting you or making you feel bad
- Difficulty finding help
- Feeling very sad or unwanted
- Someone is keeping you away from food, shelter, school, or medicine
- Family problems
- Difficulty with court
- Trouble feeling safe and happy
- Kids being mean to you at school
- You are angry or hurting
- Nowhere to sleep
- Trouble finding your paperwork
- Someone is forcing you to do something that makes you feel uncomfortable
- Someone is touching you in a way you don't like or makes you do things that make you uncomfortable

Important Websites



<http://traffickingresourcecenter.org/> - For anti-trafficking resources

<https://www.osha.gov/youngworkers/workers.html> - For information about youth work

<http://www.ncsl.org/research/education/upper-compulsory-school-age.aspx> - For information about mandatory school attendance requirements per state

<http://www.brycs.org/> - For many resources specific to immigrant children and families, including:

http://www.brycs.org/child_welfare.cfm - For information on child welfare

http://www.brycs.org/family_strengthening.cfm - For information on family strengthening

<http://www.brycs.org/schools.cfm> - For information on schools

http://www.brycs.org/youth_development.cfm - For information on youth development

http://www.brycs.org/youtharts/youth_arts.htm - For information on youth arts

<http://www.brycs.org/clearinghouse/anti-trafficking-resources.cfm> - For information on anti-trafficking

<http://www.brycs.org/head-start-collaboration.cfm> - For information on early education (head start) programs for young children

<http://www.stopbullying.gov/> - For information about bullying

<http://www.thehotline.org/> - For information about domestic violence

www.suicidepreventionlifeline.org For information about suicide prevention

<http://www.glbthotline.org/> For information about supporting LGBTQI youth

<http://uacportal.org> To download and watch the Sponsor Guide video.

<https://1drv.ms/b/s!AlvMQjQgVb1CkmRglsp4etPmeLqP> For information about sexual abuse or sexual harassment of an unaccompanied minor.



ADMINISTRATION FOR
CHILDREN & FAMILIES

UC Sexual Abuse Hotline (1-855-232-5393)

Call the UC Sexual Abuse Hotline at 1-855-232-5393 if you are an unaccompanied child, a family member, sponsor, legal service provider, child advocate or any other individual with knowledge or suspicion of sexual abuse or sexual harassment occurring at a care provider operating on behalf of the Office of Refugee Resettlement (ORR), the Administration for Children and Families, the U.S. Department of Health and Human Services (HHS).

Through its network of care providers, ORR cares for unaccompanied children (UC) who enter the United States without a parent or legal guardian and without lawful immigration status following their apprehension by the Department of Homeland Security and referral to ORR.

ORR and its care providers serving unaccompanied children have a zero tolerance policy for sexual abuse and sexual harassment. Any person with knowledge or suspicion of sexual abuse or sexual harassment occurring at a care provider facility should call the UC Sexual Abuse Hotline at 1-855-232-5393.

The UC Sexual Abuse Hotline reports, as appropriate, any allegations received directly from any child or third party to State Child Protective Services (CPS), local law enforcement, and HHS. HHS forwards each Hotline report to the appropriate care provider, who ensures that all children and youth are safe and provided with appropriate services and that all required reports have been submitted.

The Hotline is connected to live representatives who are bilingual in English and Spanish and experienced in interviewing minors. Translators will be provided for all other languages. The hours of operation are 8 a.m.—11:45 p.m. EST, seven days a week. Individuals may report anonymously if desired.

25 WAYS TO MAKE KIDS SAFER

AT HOME



- Teach children their full name, address, and home telephone number. Make sure they know your full name.
- Make sure children know how to reach you at work or on your cell phone.
- Teach children how and when to use 911, and make sure they have a trusted adult to call if they're scared or have an emergency.
- Instruct children to keep the doors locked and not to open doors to talk to anyone when they are home alone.
- Choose babysitters with care. Once you have chosen the caregiver, drop in unexpectedly to see how your children are doing. Ask children about their experience and listen carefully to their responses.

GOING TO AND FROM SCHOOL



- Walk or drive the route to and from school with children, pointing out landmarks and safe places to go if they're being followed or need help.
- Remind children to take a friend whenever they walk or bike to school and to stay with a group at the bus stop.
- Caution children never to accept a ride from anyone unless you have told them it is okay to do so in each instance.

OUT AND ABOUT



- Take children on a walking tour of the neighborhood, and tell them whose homes they may visit without you.
- Teach children to ask permission before leaving home.
- Remind children not to walk or play alone outside.
- Remind children it's okay to say no to anything that makes them feel scared, uncomfortable, or confused. Teach children to tell you if anything or anyone makes them feel this way.
- Teach children to never approach a vehicle, occupied or not, unless they are accompanied by a parent, guardian, or other trusted adult.
- Practice "what-if" situations and ask children how they would respond. "What if you fell off your bike and you needed help? Who would you ask?"
- Teach children to check in with you if there is a change of plans.
- During family outings, establish a central, easy-to-locate spot to meet should you get separated.
- Teach children how to locate help in public places. Identify people who they can ask for help, such as uniformed law enforcement, security guards, and store clerks with nametags.
- Help children learn to recognize and avoid potential risks, so that they can deal with them if they happen.
- Teach children that if anyone tries to grab them, they should make a scene and make every effort to get away by kicking, screaming, and resisting.

ON THE NET



- Learn about the Internet. Visit www.NetSmartz.org for more information about Internet safety.
- Place the family computer in a common area, rather than a child's bedroom. Monitor their time spent online and the websites they've visited, and establish rules for Internet use.
- Know what other access children have to the Internet at school, libraries, or friends' homes.
- Use privacy settings on social networking sites to limit contact with unknown users, and make sure screennames don't reveal too much about children.
- Encourage children to tell you if anything they encounter online makes them feel sad, scared, or confused.
- Caution children not to post revealing information or inappropriate photos of themselves or their friends online.

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Parents' Guide to **GANGS**



A guide designed to provide parents with answers to common questions about gangs to enable them to recognize and prevent gang involvement.



Prevent Gang Involvement

Introduction

Parents play an important role in keeping young people out of gangs. There are many things parents can do to help their children stay away from gangs, including monitoring their activities, fostering close relationships with them, and using positive and consistent discipline. However, parents often lack factual information about gangs. This guide is designed to provide parents with answers to common questions about gangs to enable them to recognize and prevent gang involvement.

Why do youth join gangs?

There are a lot of reasons why youth get involved in gangs. Sometimes youth get “pulled” into a gang because they think they might earn a lot of money and gain status, or they may think it is a good way to show family, neighborhood, or cultural pride. Other times youth get “pushed” into a gang because they are afraid for their safety and think a gang will provide protection from neighborhood crime and violence, or they have been pressured by the gang to join.

What are the consequences of gang involvement?

Even though some youth believe that gang involvement might provide safety, protection, excitement, and opportunities to earn money, the truth is that gang involvement is very dangerous and limits opportunities for the future. Research has shown that youth who are gang-involved are more likely to commit crimes, which increases their chances of being arrested and incarcerated, and to be victims of violence themselves. Young girls are especially vulnerable to sexual victimization. Youth who get caught up in gangs are also less likely to graduate high school, less likely to find stable jobs, and more likely to have alcohol and drug problems and even health problems later in life.

How do I know if my child is involved in a gang?

The most common age that youth join a gang is around 15, but the early adolescent years (12–14 years of age) are a crucial time when youth are exposed to gangs and may consider joining a gang. While it is more common for boys to get involved in gangs, girls also face similar pushes and pulls and can also become involved in gangs. Gang involvement can be fluid, as some youth move in and out of gang-involved friendship groups. Thus, parents should pay attention to even small changes in behavior.



Common Gang Identifiers for Parents

Colors

While some gangs have reduced their use of specific colors to avoid identification by law enforcement, many gangs still use one or more colors as a symbol to represent themselves. These colors may be worn on shirts; bandanas; multicolored or single-colored beads; and belts, hats, shoes, shoelaces, hair bands, and jewelry. These colors may also appear in other possessions such as school supplies and room decorations.

Symbols and Numbers

Symbols and numbers have special significance within the gang culture. Common symbols of some of the large gangs in the United States include stars (five- and six-pointed), crowns, pitchforks (pointing up or down), three dots in a triangle, and numbers. These characters do not have the same meaning across the country, and symbolism varies regionally. Contact your local school resource officer or other law enforcement representative to get specific information on the meanings of unidentifiable symbols or numbers you may see in your area.

Clothing and Apparel

Gang-involved youth may dress a specific way to identify with a particular gang, set, clique, or crew. This might include clothing or bandanas worn only in certain colors; pants worn well below the waist; gang-themed T-shirts with pictures of gangs, prison scenes, graffiti, or slogans; two- or three-toned bead necklaces; or colored fabric belts, occasionally with metal buckles that bear the initial(s) of the gang. However, gang clothing trends change and are often different from one place to another, so clothing alone may not be enough to indicate a youth's affiliation with a particular gang.

Graffiti

Gangs use graffiti to mark their territory, brag about their reputation, mourn fallen friends, and threaten or challenge rival gangs. For this reason, graffiti can be very dangerous and should be removed as soon as possible. Youth who are engaging in graffiti may have items such as spray paint, spray-paint plastic tips, wide-tipped markers, or sketchbooks with graffiti works in progress. They may also have paint on their clothing, backpacks, or other items.

Social Media

The Internet has provided a new medium for gang communication and promotion. Social media Web sites, such as Facebook, Instagram, Twitter, YouTube, and others allow gang-involved individuals to represent their gang affiliation, taunt others, post threats, and organize and promote their gangs' activities. Social media escalates the potential for violence, since it reaches such a large audience.

Gang-Influenced Music and Movies

Gangsta/gangster rap is a style of rap music characterized by violent, tough-talking lyrics that glorify street-gang culture. Popular movies also focus on street gangs and their activities. Youth may show their interest in gangs through fascination with music and movies that portray street-gang culture. However, interest in these types of entertainment alone may not be enough to indicate involvement in a gang.

Sports Items

Letters, colors, or symbols associated with professional sports teams may have specific gang meanings in local street gang culture. Sports apparel may be purchased in nontraditional colors to correspond with a gang's colors or may be altered with graffiti or extra symbols or writing.

Tattoos

Gang-related tattoos are used to show affiliation, rank, crimes committed, racial and ethnic alliances, and loyalty to a gang. These tattoos often include the name, initials, or symbols of a specific gang and may be found on the hands, neck, face, chest, back, or arms.

Hand Signs

Some gangs use specific hand gestures and handshakes to communicate their affiliation with the gang, to issue threats or challenges to rival gangs, or to communicate in code when authority figures are present. These gestures can be known as "throwing up" or "stacking."

Other changes to look for:

- Withdrawing from family activities and planned events.
- Changed academic performance or declining school attendance.
- Defiant or confrontational behavior, such as talking back, verbal abuse, name-calling, and disrespect for parental authority.
- Staying out late without reason.
- Unusual desire for secrecy.
- Angry outbursts, excessive aggression.
- Excessive worry about safety; constantly surveying surroundings for danger.
- Sudden negative attitudes about law enforcement or adults in positions of authority (school officials or teachers).
- Change in attitude about school, church, or other normal activities or change in behavior when attending these activities.
- Drastic changes in personal style.
- Withdrawal from longtime friends and forming bonds with an entirely new group of friends.
- Suspected use of drugs, such as alcohol, inhalants, and narcotics.
- Possession of firearms, ammunition, or other weapons.
- Nonaccidental physical injuries (such as evidence of being beaten or injuries to hands and knuckles from fighting).
- Unexplained cash or goods, such as clothing, video games, or jewelry.

How Can I Help My Child?

Talk to your child about the negative consequences of gang behaviors and ways to avoid them

Be clear that you disapprove of gangs and do not want to see your child hurt or arrested. Be firm in your expectations that your child should NOT:

- Associate with any gang-involved individuals.
- Hang out where gang members congregate.
- Attend any party or social event sponsored by gangs.
- Use any kind of hand or finger signs that may be meaningful to gangs, especially in pictures (even as a joke).
- Wear clothing that may have meaning to gangs in your area. (Explain to your child that these clothing items can put him or her in danger and that you will not purchase them or allow them to be worn.)

Get to know your child's friends and the friends' parents

Be aware of their attitudes toward drugs, alcohol, and gangs. When children start to feel pressure to use drugs or join gangs, it usually comes from their friends.

Familiarize yourself with the Internet, popular slang terms, and your child's online activity

Communicate with your child about the potential negative consequences of online activity, including what he or she may post online. Spend time online with your child. Ask your child to show you his or her favorite online activities, sites, and online contacts. Finally, keep the computer in a common area and utilize the computer's and Web sites' parental controls to limit the child's access to Web sites and social media.

Talk to your child about ways to deal with pressure from friends

Help your child practice simple ways to respond to peer pressure. For example, if your child is challenged by a peer who says, "If you were my friend, you would," your child can respond, "If you were my friend, you wouldn't ask." Then, he or she should walk away.

Limit interaction with gang-involved individuals

One of the strongest risk factors for joining a gang is living in the same house as someone who is involved in gangs. If your child has older siblings or other relatives in your home who are associated with gangs, be very watchful of the influence they have on your child, and intervene immediately if your child starts to copy their dress, attitudes, and/or behaviors.

Set firm limits with your child

Children and teenagers need to clearly know what is expected of them and the consequences for acting otherwise. When your child misbehaves, be sure to use fair and consistent discipline, while demonstrating unconditional love and support for your child.

Plan family time

Make time for your family to play, eat meals together, take trips (even to local parks or activities), keep family traditions, and have family meetings to talk about plans, feelings, and complaints.



For More Information

For more information, please visit our Web site at www.nationalgangcenter.gov. There are additional resources, such as the video "Why Youth Join Gangs" and a page dedicated to "Frequently Asked Questions About Gangs," that will provide information regarding gang joining and gang membership.

IIR
Institute for Intergovernmental Research

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Version 1, 07/2015

www.nationalgangcenter.gov

[REDACTED] (HSGAC)

From: [REDACTED]
Sent: Friday, August 03, 2018 2:56 PM
To: [REDACTED] (HSGAC); [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED] Follow Up- UAC and Trafficking

[REDACTED],
It was great to meet you on Wednesday. We are very appreciative for Senator Portman's leadership on this important issue. [REDACTED]

[REDACTED] we wanted to share the trafficking case example below.

Case Example – Trafficking by Sponsor in FL

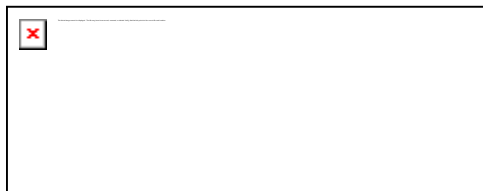
The limited use of home studies and post-release services has resulted in children being released to situations of abuse, abandonment, neglect, and trafficking. These are youth like Juan,* who was released from ORR care without services to his half-uncle in Florida. Shortly after his reunification, Juan's uncle withdrew him from school and sent him to work in the fields with his two cousins (who had not been in the care of ORR). This forced labor continued until Juan's cousin was injured and brought, with Juan, to the Emergency Room, where the injury raised abuse and trafficking concerns. CPS investigated the situation and removed the children from the home, placing the children in state custody. (*Child's name changed to protect identity.)

Have a nice weekend.

Sincerely,

[REDACTED]

[REDACTED]





Agenda

USCIS Asylum Division Quarterly Stakeholder Meeting

Friday, Aug. 11, 2017

Tomich Center

111 Massachusetts Ave. NW

Washington, D.C. 20001

2 – 4 p.m. (Eastern)

I. Welcome and Introductions

II. Asylum Division Updates

- a. The current RAIO-CT and ADOTP classes have enrolled 84 and 47 students, respectively.
- b. Regularly Provided Statistics (posted on USCIS.Gov)
 - Affirmative Asylum Statistics (April 2017 – June 2017)
 - NACARA Statistics (June 1999 – June 2017)
 - Credible and Reasonable Fear Statistics and Nationality Reports (April 2017 – June 2017)
 - Unaccompanied Alien Children Statistics (April 2017 – June 2017)

We publish the regularly provided statistics on the uscis.gov website before the quarterly engagement so you can review them before the meeting and print a copy if you so choose.

III. Asylum Office Jurisdiction Over Affirmative Asylum Applicants with Expedited Removal Orders and/or Notice To Appear (NTAs)

- a. We have a handful of clients who have been released from detention and issued NTAs, but those NTAs have not been filed with the immigration court. Immigration courts will not accept an asylum filing if an NTA has not yet been filed with the court. USCIS also rejects asylum filings for these applicants citing lack of jurisdiction, even though the 2013 Affirmative Asylum Manual states that the asylum office maintains jurisdiction unless an NTA has been served on an applicant and filed with the Executive Office for Immigration Review (EOIR). How can the issue be addressed to allow applicants caught in this “catch 22” to file before the one-year deadline? Does the asylum office consider itself to have jurisdiction when ICE has produced an NTA and served it upon an applicant, but ICE has not filed the NTA with EOIR? If the asylum office does not accept jurisdiction because it wants to give ICE an opportunity to file the NTA, would it make a difference if substantial time has passed without ICE taking any action?

Response: Due to ongoing litigation in *Mendez-Rojas v. Duke*, we are unable to respond to these questions at this time. Please note, if you have specific cases with related concerns and if ICE or CBP issued the NTA, we recommend you contact ICE to request that ICE file the NTA with the immigration court. If an Asylum Office issued the NTA after conducting a credible fear screening, please contact the Asylum Office to request that it file the NTA with the immigration court.

- b. Some practitioners have seen that their local asylum offices are declining jurisdiction over affirmative asylum applications due to the existence of an expedited removal order even if:
- That order was later rescinded/vacated/never effectuated due to the superseding issuance of a Notice to Appear, and
 - No charging document was filed with an immigration court. When the asylum office learns of the expedited removal order, they are administratively closing the case *sua sponte* for lack of jurisdiction.

In many cases practitioners and applicants are not provided notice of the administrative closure, and closure appears to stop the EAD clock and erase the time elapsed on the clock.

Please confirm the Asylum Division's interpretation of regulations and the INA regarding jurisdiction.

Response: See the response to question III.a. above.

IV. **Policy Memorandum PM-602-0137**

- a. USCIS issued a Policy Memorandum PM-602-0137, dated Oct. 5, 2016, "Revised Guidance for Processing Asylum Cases Involving Terrorism-Related Inadmissibility Grounds and Amendment to the Hold Policy for Such Cases." Based on this memo, cases that were previously on hold at HQ due to possible TRIG will be "referred" to EOIR.

Can you please provide an update on how many cases remain at HQ that were previously on hold due to TRIG?

Response: We have approximately 10-15 TRIG cases that were removed from TRIG hold following the October 2016 policy memorandum still pending with HQ.

What is the process to remove these cases from hold for referral to EOIR and how long is this process expected to take?

Response: We cannot provide a timeline for when the processing of these cases will be completed. We are making every effort to review cases and return them to the field in a timely manner.

How will cases in which a TRIG exemption is authorized be processed under the new policy?

Response: Cases involving a TRIG exemption continue to receive two levels of review prior to decision service.

- b. What is the date of the next of the next TRIG Quarterly Stakeholder Meeting?

Response: The next meeting has not been scheduled at this time. Please address inquiries on the scheduling of the next engagement to Karen Sohrakoff, chief of the RAIQ TRIG Unit.

V. Conflicts While Awaiting Adjustment

- a. Normally, a person who entered as a nonimmigrant, but has become in violation of his status, will be allowed to adjust status through the petition of a U.S. citizen immediate relative. If such a person has an I-130 and I-485 pending, and is awaiting his adjustment interview, upon the non-grant of an affirmative asylum application, would the asylum office refer the case to the EOIR, or allow the person to continue to await his adjustment interview? What would be the result of a non-grant of a person awaiting a TPS application adjudication, referral to the EOIR or allow the person to await adjudication of the TPS application?

Response: Asylum offices are required by regulation to issue Notices to Appear to affirmative asylum applicants who are not in valid immigration status and are not found eligible for asylum, but asylum offices may be willing to coordinate on a case-by-case basis with other USCIS components to delay issuance of an NTA if the adjudication of a concurrently pending application and/or petition is imminent.

VI. Changes of Address

- a. If an asylum applicant lives in the jurisdiction of an asylum office, for example New Jersey, and moves to the jurisdiction of another office, for example New York, does the applicant need to do anything other than file an AR-11 to ensure that the case is transferred to the correct office? For example, should she write a letter to one or both offices?

Concerning the above example, does the transferred case join the asylum office queue based on the date of application? For example, in the example above, if the applicant filed in January 2015 and moved from the NJ jurisdiction to the NY jurisdiction, she should now be “current” for a NY interview. Should she expect to be interviewed immediately or are case transfers added to the queue in some other way?

Response: Asylum offices are notified of a change of address automatically, if the customer follows the directions in the uscis.gov website under [File a Change of Address Online](#), including answering “yes” to the question: “Is this change of address for an application or petition currently in progress?” These steps must be taken to notify the asylum office where the application is pending of the change of address.

The Change of Address Online system captures the data provided by a customer or the representative in one central location to fulfill two processes: 1) notifying USCIS that a customer has changed his/her address and 2) in the case of a customer with a pending benefit request, informing the specific USCIS office of the change of address to ensure that asylum offices send mail to the proper address.

The applicant may also submit a change of address through the mail by sending one copy to the address on the website and one copy to the asylum office where the application is currently pending. Both steps must be taken if completing the change of address by mail.

Yes, the transferred case joins the asylum office queue at the new office based on the filing date.

- b. Asylum adjudication jurisdiction—if an applicant changed address while asylum is pending, does the case follow to respective jurisdiction or stay with the initial jurisdiction?

Response: Generally, if the applicant has not been interviewed before the move, the applicant will be interviewed in the new asylum office jurisdiction. If the applicant was interviewed before moving to a new asylum office jurisdiction, generally the case will be adjudicated by the asylum officer in the old jurisdiction unless an additional interview is required.

VII. Biometrics Notices

- a. During the call in January (I believe) there was mention that the biometric notices were going to be for date/time specific appointments. Notices arriving still have the two week window. Is this going to change?

Response: Yes. As of Aug. 3, the Asylum Division began to issue biometric notices for date/time specific appointments for all cases. However, applicants may continue to receive biometrics notices with two-week windows that were scheduled before the change for a short time during the transition.

- b. What should practitioners do when the USCIS notification for asylum interview arrives before biometrics notification? Who should we contact to initiate fingerprints? Should we alert USCIS?

Response: In the fall of 2016, the Asylum Division began to “refresh or re-submit” existing asylum-related fingerprints for applicants such that the applicant no longer had to attend an appointment for biometrics collection. This provides better customer service to the applicants and also allows the Application Support Centers (ASC) to better handle increasing new asylum application receipts. If the applicant or dependent was previously fingerprinted for the asylum application and receives the interview notice without receiving a biometrics appointment, the applicant is not required to go to the ASC again for biometrics collection prior to the interview.

If the applicant or dependent has never been fingerprinted for the asylum application and received the interview notice before the biometrics appointment notice, please contact the asylum office where the application is pending so that they can schedule a biometrics appointment before the asylum interview.

- c. After an asylum application is filed, we are receiving a biometrics notice with a range of dates, usually a week during which the applicants need to go to the local ASC office to have their fingerprints done. However, the local ASC office is refusing to fingerprint applicants with this type of notice and is asking them to provide a notice with a specific date and time. What should be done in this case?

Response: Applicants should now receive a biometrics notice with a specific date and time. Please continue to attend biometrics appointments and take your appointment notice. If you need to re-schedule your appointment, follow the instructions on the notice or contact the local asylum office for assistance.

VIII. Affirmative Asylum Scheduling Bulletin and Interview Priorities

- a. Asylum offices have stated at some local liaison meetings that the Affirmative Scheduling Bulletin is not accurate (delays are longer than what the website indicates). Will the bulletin be generally updated for accuracy?

Response: Creating the scheduling bulletin is not a science. It's an estimation based on the number of cases scheduled for interview the previous month and the number of cases that were not scheduled for interview (from a particular filing month). The Asylum Division will look into ways to make the bulletin less manual and more accurate and informative, to include additional priorities and interview locations.

- b. Will the asylum offices continue to prioritize scheduling of children's cases? If so, would they consider issuing a separate scheduling bulletin for children's cases so representatives can better plan for when those cases will be scheduled?

Response: The scheduling priorities currently remain the same. See the response to VIII.a above.

- c. I recall there was a recent announcement that the scheduling bulletin would include circuit rides. When is this likely to be implemented?

Response: See the response to VIII.a above.

- d. Are the asylum offices still scheduling interviews on a first-in-first-out basis? Have there been any changes in the prioritization or scheduling process for asylum interviews or are any such changes anticipated in the future?

Response: Generally, the asylum offices continue to follow the scheduling priorities as described on uscis.gov in the Affirmative Asylum Scheduling Bulletin. The Asylum Division continuously examines scheduling priorities based on receipts, pending caseloads, resources and priorities.

- c. How many cases, as a percentage, typically have an applicant called back in for a follow-up/second interview? Anecdotal reports suggest an uptick in this occurring.

Response: We do not track this information in our case management system.

- e. Can you please tell me how to request an expedited hearing?

Response: Asylum office directors may consider applicants' requests for urgent interview scheduling outside of the prioritization categories on a case-by-case basis. Please submit any urgent interview scheduling requests in writing to the asylum office with jurisdiction over your case. Go to the [USCIS Service and Office](#) locator page for contact information.

- f. On average, how many months does the asylum process take?

Response: The length of time for completing an affirmative asylum application depends on various factors, including but not limited to:

- The date the application was filed;
- The caseload of the asylum office with jurisdiction over the application; and
- Whether the applicant is interviewed at a local asylum office or at a circuit ride interview location.

Please see the [Affirmative Asylum Scheduling Bulletin | USCIS Affirmative Asylum Scheduling Bulletin](#) for more information about interview priorities on uscis.gov/asylum.

IX. Including Updated Information in the Applicant's File in Time for the Interview

- a. Many years go by before one obtains an interview with a two weeks' notice given before the interview. What is the best method to submit updated information or additional evidence to the asylum office? Is it better to do so in person at the time of the interview or should we do so within the two weeks by sending it to the asylum office? My problem with the latter is often times the additional documents do not get placed in the correct file for the officer to find before the interview.

Response: Check with the asylum office with jurisdiction over your case for local procedures for submitting supplemental documentation. Generally, you should submit the supplemental documents before or immediately after you receive the interview notice (within two weeks before the interview date). If you cannot submit the supplemental documents before two weeks, bring extra copies for the interviewing officer. You may drop them off earlier in the week with the interviewing officers at your circuit ride location.

X. Post-Interview Delays

- a. We have experienced high number for asylum seekers approaching our agency asking for assistance. Could you please explain the delays in processing asylum applications, more specifically for clients from Syria? Some of these clients have been interviewed by an asylum officer more than once, and yet their cases are still pending for over two years. Is there a way for an applicant's attorney to advocate for an expedited decision following an asylum interview, for example, in the case where a client's family is in danger as they wait for the decision? How might an applicant find out how long a decision might take if they have been waiting for a year or longer for an interview decision?

Response: We are not aware of delays specific to Syrian asylum cases. Asylum office directors have the discretion to consider applicants' requests for urgent post-interview processing on a case-by-case basis. Please submit your request to the asylum office with jurisdiction over your case.

- b. Does USCIS have any estimates of how much longer the additional screening of applicants will add to current waiting times? Is there anything in particular that stakeholders who work with the affected populations can do to help USCIS with the new and expanded processes?

Response: See the [Executive Orders on Protecting the Homeland](#) page on DHS's website for information outlining the impact of the executive orders.

- c. Is there any policy change regarding asylum issues?

Response: There are no changes regarding affirmative asylum issues.

XI. I-94s for Defensive Asylees

- a. There is a problem around I-94s which has taken up so much time—yours, mine, and the new asylees! The problem is that sometimes new asylees are not handed an I-94 when they are released from detention, following a grant of asylum. Some are able to obtain one when they reach their destination and contact the local USCIS office. How do I resolve this problem?

Response: The procedures for requesting and receiving an I-94 card after a grant of asylum by an immigration judge are available online at [Immigration Benefits in EOIR Removal Proceedings](#). At the final hearing, you will receive orally and in writing the "Post-Order Instructions," which explain you must make the request to the local USCIS Field Office. The Asylum Offices do not provide I-94 cards to individuals granted asylum by an immigration judge.

XII. Unaccompanied Children

- a. Is there any new or anticipated guidance on circumstances under which unaccompanied children will be re-designated as accompanied? Likewise, is there guidance or procedures for when those designated as unaccompanied children turn 18?

Response: Under Executive Order 13767 and the DHS implementation memo for Executive Order 13767, DHS is currently developing uniform guidance and procedures on applications for asylum filed by UACs for adjudication by USCIS under the “initial jurisdiction” provision of the TVPRA. However, the May 2013 USCIS memo, *Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children*, is still in effect. The memo has not been rescinded nor replaced with new procedures for determining initial jurisdiction.

- b. Are the asylum offices still following the 2013 memo that says they will not do an independent analysis of UAC status for individuals who were designated UACs and never affirmatively "re-designated"? In other words, will the AO still treat an I-589 as filed by a UAC even if the applicant is now over 18 or appears to have reunified with a parent, so long as there was no re-designation?

Response: The May 2013 USCIS memo, *Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children*, is currently still in effect. At this time, the memo has not been rescinded or replaced with new procedures for determining initial jurisdiction. Under Executive Order 13767 and the DHS implementation memo for Executive Order 13767, however, DHS is currently developing new uniform guidance and procedures on applications for USCIS adjudication of asylum applications filed by UACs under the “initial jurisdiction” provision of the TVPRA.

- c. Does the Asylum Office have jurisdiction over cases filed by a UAC who was in court even if the UAC took prosecutorial discretion and the case was admin closed or terminated? If they were designated as UACs and never re-designated, would the Asylum Office have jurisdiction even if several years have passed and the individual is no longer a minor?

Response: Under current procedures, if a UAC’s removal proceedings were administratively closed, the NTA is still active in the case. Therefore, the Asylum Office may have jurisdiction over an asylum application pursuant to the “initial jurisdiction” provision of the TVPRA. If a UAC’s removal proceedings were terminated, the Asylum Office would have jurisdiction over an asylum application as an affirmative asylum application since the applicant is no longer in removal proceedings, regardless of whether the application was filed by a UAC.

Under the 2013 memo currently still in effect, if CBP or ICE determined that an 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.

Under Executive Order 13767 and the DHS implementation memo for Executive Order 13767, however, DHS is currently developing new uniform guidance and procedures on

USCIS adjudication of applications for asylum filed by UACs under the “initial jurisdiction” provision of the TVPRA.

- d. Sponsors and other adult caregivers are expressing increasing fear of attending child asylum interviews as witnesses or “trusted adults” because of increased immigration enforcement efforts. Does the Asylum Division have a policy regarding the sharing of witness and other adults’ information with Immigration and Customs Enforcement? Will asylum officers be encouraged to give more weight to written declarations given these concerns?

Response: Asylum officers continue to be instructed to elicit testimony on all relevant eligibility requirements. Asylum interview notes are part of the record in the A-File. If the application is not approved, the asylum office transfers the file to ICE OPLA for removal proceedings. If the asylum application is approved, USCIS informs ICE so that appropriate arrangements may be made to terminate proceedings. Asylum officers will consider written declarations.

- f. We have learned of a situation in which the SF Asylum Office denied a UAC’s asylum claim based on evidence from ICE’s EARM (Enforcement Alien Removal Module) system. Counsel for the UAC was not provided with the evidence or given an opportunity to address it at any time during the application process. Has USCIS implemented a new policy permitting asylum officers to issue denials without giving an applicant the opportunity to respond to the evidence used to deny the case? Please provide a copy of any written agency guidance regarding this practice.

Response: No, there is no new or revised policy. Please direct case specific inquiries and concerns to the interviewing office.

XIII. Gang-Related Questions

- a. Are there new policies or practices on sending gang-related cases to Headquarters for review? If so, does this apply to victims of gang activity? Does the policy/practice apply to minors as well as adults? Advocates have also heard that any unaccompanied minors that are or were previously in a “staff-secure” or “secure” Office of Refugee Resettlement facility will have their cases sent to Headquarters for review. Is there a new policy in place on this?

Response: The Asylum Division has always maintained and exercised the ability to request certain cases be submitted to Headquarters for review before decision issuance, even if for only a short period of time, in order to get a better understanding of the types of cases being seen in the field. Recently, there has been significant reporting on gang activity in the United States associated with Central American gangs. As such, we believe it is prudent at this time to ensure that we understand what cases may be coming through the affirmative asylum process in which there are indications that the applicant has a history of violent criminal activity or gang affiliation or involvement. Therefore, we have asked offices to submit proposed grants to Headquarters for review if the adjudicator detects indicators of past or current gang affiliation regardless of whether the applicant is a juvenile or an adult.

Under ORR rules for placement, this type of history may be a factor considered when determining placement in these facilities. Therefore, as part of this request, we have requested to review proposed grants where the applicant was previously or is currently being held in a “staff-secure” or “secure” ORR facility. We may conduct a similar review of proposed referrals/denials in the future. We have not asked to see cases based on whether an applicant is a victim of gang activity.

- b. Advocates have observed an increase in the number and detail of questions on whether unaccompanied minors had ever associated with gangs, or been victim of a gang. We have also noted an increase in questions relating to the child’s journey to the United States and specifically who bore any costs associated with the journey. Can you comment on the purpose or intention of such questions?

Response: We are not aware of an increase in the number or type of questions being asked about gang association, being a victim of gang violence, the applicant’s journey to the U.S., or those who bore the costs for this journey. Adjudicators are trained to develop the record as necessary to make a legally sufficient determination, which could include asking about any of the issues raised in this question, depending on the facts of the case.

- c. Which unaccompanied child asylum case decisions are currently being sent to Headquarters for review before the decisions can be issued? How long is it taking for Headquarters to complete these reviews? What percentage of UAC cases requires Headquarters review now?

Response: We do not ask that UAC cases come to Headquarters categorically. They may be submitted for review if they are subject to the review discussed above, involving potential gang affiliation, or for other reasons, such as if they are novel, high profile, likely to be publicized, or involve national security issues. We do not have data on how long these cases take to review or what percentage of UAC cases receive Headquarters review.

- d. AILA has received reports that asylum officers have implemented new procedures related to the adjudication of cases that may have possible MS-13 connections or possible gang-related issues. Has Headquarters provided any new guidance to the field concerning the adjudication of asylum cases with possible MS-13 connections or gang-related issues? If yes, please specify what these changes are. Are there written policies on these changes? Will USCIS provide stakeholders with a copy of these written policy changes?

Response: Other than the steps mentioned above to require that certain proposed grants come to Headquarters for review, no additional guidance has gone to the field concerning the adjudication of asylum cases with possible MS-13 connections or gang-related issues.

- e. Please identify which categories of asylum cases are now being sent to Headquarters for review. Will USCIS provide stakeholders with a copy of this updated written policy guidance?

Response: Cases that currently come to Headquarters include those described above in XIII.a. and c., including cases that may be likely to be publicized or are otherwise high profile, as well as any that involve national security issues.

XIV. Publication of Lesson Plans and Training Modules

- a. Why does the Asylum Division publish just some, but not all, lesson plans and training modules? Why not publish all of them?
- b. Will the Asylum Officer Basic Training Course lesson plan materials be made available in the USCIS Electronic Reading Room or in any other public location? If not, please explain.
- c. When will USCIS guidance and officer training materials on children's asylum claims, such as the RAIO training materials, be available on the website again?

Response: Most training materials used to train new officers at RAIO are no longer available on RAIO's public website. The Asylum Division's lesson plans that are used to train asylum officers have been removed completely from the website and we are working to remove the remaining lesson plans because they will be posted for the public to access elsewhere.

In response to a series of recent Freedom of Information Act (FOIA) requests, all of our current lesson plans have been submitted to the USCIS FOIA office. The FOIA office will determine whether the materials are subject to any exceptions to disclosure. Any materials deemed sensitive or subject to a FOIA exception will be redacted by the FOIA office as appropriate. The FOIA office will post the remaining lesson plans, which we expect to be the majority of the lesson plans, in the [USCIS Electronic Reading Room](#). Some of the materials have already been posted there, including training materials on adjudicating children's asylum claims and gender-related claims. We are working with the USCIS FOIA office to determine when the remaining materials will be posted.

XV. Staffing

- a. How are the overall staffing levels for asylum officers? Are there many openings? Are there plans to increase the workforce at this time?

Response: The Asylum Division is currently authorized 625 field asylum officers. As of July 10, there are 516 field asylum officers onboard with an additional 102 individuals selected to fill some of the remaining vacancies. USCIS is currently engaged in its annual staffing needs assessment. No additional information is available at this time.

- b. Please provide the current number of asylum officers currently on staff.

Response: See response to XVII.a above.

- c. Please provide the average number of asylum officers assigned to conduct affirmative asylum interviews from January to August 2017, broken down by month.

Response: We do not capture the requested data.

- d. During the May 2, 2017 Asylum Stakeholder meeting, the Asylum office indicated that asylum officers had been assigned to conduct CFIs and RFIs at the following detention centers: Cibola, Eloy, Florence, Adelanto, Imperial, Otay Mesa, Pearsall, Polk, Dilley, and Karnes. Please provide an updated list of the detention centers where asylum officers have been assigned to conduct CFIs and RFIs. Please provide the current number of asylum officers assigned to each facility.

Response: The facilities have not changed. The number of asylum officers assigned to these locations fluctuates weekly and, at times, daily. During the week of July 24, a total of 46 asylum officers were assigned to the above mentioned sites.

XVI. CBP and Transgender Asylum Seekers

- a. I'm concerned about reports I've heard from Human Rights First and the Transgender Law Center that asylum seekers, including a number of transgender women fleeing violence in Central America, are being told by CBP at the border that they can't seek asylum and whether USCIS is working with CBP on addressing this issue. I would like to know if USCIS is working with CBP to address reports of CBP officers turning asylum seekers away at the border.

Response: The issue of CBP actions at the border related to asylum seekers is subject to litigation. Due to the litigation, we are unable to respond to this question.

XVII. Initiation of Removal Proceedings

- a. Has there been any change in the past eight months to the policy or procedure for initiating removal proceedings against asylum applicants who have applied for asylum affirmatively and whose affirmative asylum cases have yet to be adjudicated by the asylum office?

Response: No, the Asylum Division has not made such changes in the past eight months.

- a. For FY 2016 and 2017, how many cases have removal proceedings been initiated against people who had affirmative applications for asylum pending without decision at the time the NTA was issued? Please provide a breakdown by (a) asylum office, and (b) nationality of applicant. In how many of these cases had the affirmative asylum applicant been (a) charged with a criminal offense; (b) convicted of a criminal offense?

Response: USCIS Asylum does not track this information in our case management system.

- c. If a case looks improbable, inconsistent with country conditions, or just falsified, is the interview process speeded up, to throw the person in court? Cases in the asylum office now take 27 months to be heard.

Response: USCIS schedules the affirmative asylum interview and considers the evidence on a case-by-case basis. If the individual does not establish eligibility for asylum and is not in lawful immigration status, the asylum office places the individual in removal proceedings.

XVIII. Detention and Affirmative Asylum

- a. I have heard of those asylum applicants who have been stopped at checkpoints where CBP agents are present. The applicants have informed agents that they filed their asylum application before the expiration of their six months of their I-94 and are still being detained.

The ICE agent or CBP agent are saying that an asylum applicant has no legal status even if they filed before the six months of the expiration of their I-94, which is troubling, because if they detain every person who is awaiting an asylum interview, it would be contradictory to the acknowledgement of receipt that they receive after they file their I-589, which states you're allowed to remain in the United States while your asylum application is pending.

Therefore, perhaps further clarification is necessary to the CBP or to ICE agents so that a memo can be sent out that asylum applicants should not be detained, since they have an asylum application pending and it is not their fault that the USCIS has a backlog of asylum applications and they cannot have their interview conducted within six months so they should not have to bear the consequence of their asylum application not being processed for an interview and thus being detained saying that they're under no lawful status and that asylum applicants have no lawful status.

Even though they do not have a lawful status they are an asylum applicant and their I-797 acknowledgement of receipt states that you are allowed to remain in the United States while you're asylum application is pending. Therefore, my question is whether there is any clarification to ICE agents or to CBP agents, so they are aware that those asylum applicants with pending asylum applications before the USCIS, should not be detained if their six months have expired and their I-589 is pending before USCIS.

Response: ICE and CBP have the legal authority to determine whether to take aliens into custody when they encounter them at the border or inside the United States, and to determine whether to place them into removal proceedings. If ICE or CBP places them into removal proceedings, USCIS loses jurisdiction over the application and they may apply for asylum or other protection as a defense to removal while in detention.

XIX. Credible Fear and Reasonable Fear Cases

- a. USCIS revised its Credible Fear of Persecution and Torture Determinations and Reasonable Fear of Persecution and Torture Determinations on Feb. 13, 2017. These new lesson plans

are effective as of Feb. 27, 2017. Has any additional guidance been issued to the field concerning CFIs and RFIs?

Response: No.

- b. During the May 2, 2017, Asylum Stakeholder meeting, the Asylum Office stated that there is a random review process for CFI and RFI cases. Please identify any categories of CFI and RFI cases that are required to be reviewed by Headquarters.

Response: Headquarters does not review any specific categories of CFI or RFI cases. Cases are selected at random for submission to Headquarters for review.

XX. **Attorney Interaction with the Asylum Officer at the Interview**

- a. Under the current training model, what exactly are new asylum officers trained to expect from their interactions with attorneys representing asylum applicants at the asylum interview? Interactions with asylum officers still vary substantially from officer to officer. Some welcome attorney participation to clear up obvious confusion so the interview is not needlessly sidetracked for 15-20 minutes because something is lost in translation. Others clearly do not want the attorney to open her mouth. What does the asylum division consider to be appropriate in terms of an attorney speaking during an asylum interview? I know that the older Asylum Officer Basic Training Course stated: "In certain instances, it may be appropriate for the representative to comment during the course of the interview to avoid confusion or misunderstandings. Such comments may be helpful and should not be discouraged."

This issue was also raised in the May 2, 2017, Stakeholder Meeting. However, I recently experienced the variance in asylum officer attitudes toward attorney participation in the asylum interview in interviews on June 7 and June 14. I feel it is necessary to continue to raise this issue until the problem has been rectified. Is the Asylum Division taking steps to assure that all asylum officers are familiar with the desired role that attorneys should play in an asylum interview? This seems particularly important as there are over 270,000 (likely tens of thousands more by the time the stakeholder meeting takes place) pending applications in which interviews will be necessary.

Response: All asylum officers receive training on non-adversarial interview techniques. The training materials emphasize the role of the asylum officer to manage the interview.

"Because of the non-adversarial nature of the process, described below, the role of the representative during the interview is minimal. You [the asylum officer] control the interview and will ask most of the questions. You may allow the representative to comment or ask questions during the course of the interview to clarify specific points. After your last question, you should give the attorney an opportunity to offer a closing statement. You have the discretion to limit the length of the closing statement, or in rare circumstances, require that a statement be submitted in writing instead." *Interviewing – Intro to the Non-Adversarial Interview.*

We have shared your concerns with the Arlington Asylum Office. The Arlington Asylum Office encourages attorneys to engage with local office management, by asking for a supervisor, after the completion of the interview if you have a particular concern regarding the officer's conduct in an interview. Also, all asylum offices have regular local stakeholder engagements and we encourage you to submit your questions to be discussed at those engagements. Contact the local asylum office management for the details regarding these engagements.

XXI. Information Provided at the Waiting Room Window

- a. Some applicants report that when they inquire at the asylum office window, they are told their exact position on the short notice list (for example: "You are number 245."). Others are told that no information can be shared on that topic. For applicants that eagerly await their interviews because they seek to be reunited with their loved ones after receiving asylum, it helps when they can receive at least some information about where they are in the process. However, for those that are turned away with no information, it causes them confusion and frustration. Many have heard from friends that they were provided information when they inquired at the office window, so the applicant will wonder why she was not treated the same way. I would encourage the open sharing of this kind of information... but at the very least, there should be a consistent policy of dealing with these inquiries. Does such a policy already exist?

Response: The Asylum Division has general national customer access standards which establishes multiple means for applicants to contact asylum offices while also protecting their confidentiality under 8 C.F.R. § 208.6. Asylum office management may also develop local procedures which meet the national standards. We have shared your concerns with Arlington Asylum management, and they will endeavor to provide standardized responses to this question.



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**Lutheran Immigration
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Baltimore, MD 21230
Phone: 410-230-2700
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<http://www.lirs.org>



**Lutheran Immigration
and Refugee Service**

Post-Release Services: Family Preservation Services for Immigrant Children Released from Federal Custody

Frequently Asked Questions (FAQ)s

[What are post-release services?](#)

[Who receives post-release services?](#)

[When are post-release services required?](#)

[Why are post-release services necessary?](#)

[Where are post-release services available?](#)

[Who assists children and families through post-release services?](#)

[Who has custody of children during the post-release service period?](#)

[How do post-release service providers assist children and families?](#)

[When does Child Protective Services assist?](#)

[What is the post-release service period?](#)

[Who funds post-release services?](#)

What are post-release services?

Post-release services ensure safety, well-being, and a path to permanency for unaccompanied alien children¹ (UAC) released from federal custody to family members and other caregivers throughout the United States. Through risk assessment, action-planning with families around areas of need and concern, systems advocacy with community providers, and culturally-appropriate services and community referrals, post-release services strengthen families and protect children. Lutheran Immigration and Refugee Service (LIRS) and the United States Conference of Catholic Bishops (USCCB) have provided post-release services for children released from federal custody since 1994.

Who receives post-release services?

In the US, UAC who are apprehended by immigration authorities due to their lack of immigration status are placed in the custody and care of the U.S. Department of Health and Human Services' Office of Refugee Resettlement (HHS/ORR). HHS/ORR makes and implements placement and service decisions of all UAC's while in federal custody. UACs have the right under federal law to be released to family members or other responsible adults (referred to as "sponsors"). HHS/ORR-funded care providers refer UAC who are released to family members (or other approved sponsor) to one of the HHS/ORR-funded agencies providing post-release services based on their assessment of the needs of the child, relationship and motivation of the sponsor, and ability of the sponsor to meet the child's unique needs. Not all children released from federal custody receive post-release services. The percentage of released children who receive post-release services fluctuates and is subject to allocation of funding.

¹ The term 'unaccompanied alien child' means a child who has no lawful immigration status in the United States; has not attained 18 years of age; and with respect to whom there is no parent or legal guardian in the United States; or no parent or legal guardian in the United States is available to provide care and physical custody. (Homeland Security Act of 2002).

When are post-release services required?

The Trafficking Victims Protection Re-Authorization Act (TVPRA) of 2008 requires the Secretary of Health and Human Services to conduct follow-up services², during the pendency of removal proceedings, for children for whom a home study was conducted. Home studies are required if the child is a victim of severe trafficking in persons, has a disability as defined in Section 3 of the American Disabilities Act, if the child has been a victim of physical or sexual abuse under circumstances that indicate that the UAC's health or welfare has been significantly harmed or threatened, or if the proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child.³ The TVPRA also authorizes the Secretary 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. A sponsor is not obligated by law to accept post release services.

Why are post-release services necessary?

Child welfare practitioners have found the provision of family preservation services following family reunification to be essential to reducing the risk of harm to children and increasing the ability of parents to protect and supervise. Although family reunification, when safe and appropriate, is in the child's best interest, it can also be a highly stressful time, in particular, for families that have been separated for years, or, for children who are released to adults with whom they have little or no previous relationship. For UAC and their sponsors, environmental factors such as immigration status, English language ability, extent of integration, and lack of an extended family support structure in the US further compound the risk for breakdown upon reunification. Ultimately, supporting a successful reunification through post-release services reduces the likelihood of family breakdown, placement into foster care, commission of crime, recidivism into the juvenile justice system, recidivism into treatment placement, or first time entry into adult corrections.

Where are post-release services available?

UAC referred to LIRS and USCCB receive post-release services from a local, community-based organization *anywhere in the US or U.S. territories*. Post-release services follow the child; therefore, if the child and family move, or the approved sponsor arrangement breaks down and the child moves in with another family member, the child continues to receive services anywhere in the US.

Who assists children and families through post-release services?

LIRS and USCCB provide post-release services through their established networks of community-based agencies with expertise in professional child and family services and services for immigrants. We believe community-based services are essential and practitioners with established local partnerships and knowledge of local resources are best equipped to do this work. Education and ongoing support are necessary to assist community-based providers in tailoring their service approach to adequately address the unique needs of undocumented and mixed status families and help them navigate systems such as medical and mental health services, schools, direct assistance and the immigration courts.

Who has custody of children during the post-release service period?

The federal government relinquishes custody of the UAC once they are released to sponsors. Therefore, HHS/ORR retains no custodial authority once a child is released to a sponsor, even in cases in which LIRS/USCCB are providing post-release services. Although the sponsor signs a document stating s/he will care for the child, this document does not grant legal guardianship. Sponsors may apply for and receive legal guardianship according to state law; however, due to fear of being made known to immigration authorities, instability in housing or employment, and other challenges faced by undocumented sponsors, it is common that sponsors do not obtain guardianship leaving the UAC with no legal guardian.

² While the term "follow up services" is used in the TVPRA, we use the term "post release services" for the purpose of this document since the implementing agency within HHS, the Office of Refugee Resettlement (ORR), uses the term "post release services", and our agencies have also adopted the term. They are two terms used synonymously.

³ <http://www.justice.gov/olp/pdf/wilberforce-act.pdf>

How do post-release providers assist children and their families?

USCCB and LIRS implement a strengths-based family strengthening and kinship navigator approach adapted to the UAC's unique needs. This approach engages the family as active participants in goal-planning and achievement by empowering them to navigate community resources independently. This includes identifying the family's protective factors,⁴ such as strong extended family relationships, the desire for education and achievement for their children, and the maintaining of cultural connections while integrating into U.S. society.

An assigned case manager coordinates an individualized package of services to UAC and their sponsors depending on their unique needs. Services include:

- Home visits and family preservation services
- Ongoing psycho-educational support and opportunities to foster community integration
- Systems advocacy and education to overcome barriers to services to include enrolling in public school, ensuring access to individual service plans (IEP) in school to include ESL courses and tutoring, and finding affordable and bilingual health care providers
- Identification of resources to support the family in meeting basic needs
- Connection to community supports, whether places of worship, ethnic community, and/or support groups
- Continuous assessment of child safety and well-being
- Referring children to low cost or pro bono immigration legal assistance and educating children and their families about immigration processes
- Convening, supporting, and encouraging interdisciplinary panel to discuss cases, as needed

When does Child Protective Services assist?

Local child protective services (CPS) are contacted per mandated reporting requirements, i.e. in cases of alleged child maltreatment by the sponsor. If needed, CPS may assign a guardian ad litem, or open an investigation. Responses by CPS to cases of alleged maltreatment of undocumented children vary by location, and LIRS and USCCB provide ongoing education to CPS about the needs of children in immigration proceedings.

What is the post-release service period?

The TVPRA mandates post-release services for children who received a home study continue throughout the duration of his or her removal proceedings, or, until they turn 18 years old, whichever happens first. For children released without a home study, post-release services are provided for six months, and potentially longer if in a professional's judgment, the child could benefit from ongoing assistance.

Who funds post-release services?

Currently, most post-release services are funded by HHS/ORR. However, LIRS and USCCB also provide non-governmental assistance to children identified as needing services after release from custody.

Please contact us if you would like further information about post release services for a child you know, or for information about becoming one of our network providers.

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U.S. Conference of Catholic Bishops
3211 4th Street, NE
Washington, DC 20017-1194
(202) 541-3081 / (202) 541-5409
migratingchildren@usccb.org
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Children's Services
Lutheran Immigration & Refugee Service
700 Light Street
Baltimore, MD 21230
(410) 230-2757
childrenservices@lirs.org
<http://www.lirs.org>

4 Weine, S. (2008). Family Roles in Refugee Youth Resettlement from a Prevention Perspective. *Child and Adolescent Psychiatric Clinics of North America*, 17 (3), 515-532.



ADMINISTRATION FOR
CHILDREN & FAMILIES

330 C Street, S.W., Washington, DC 20201 | www.acf.hhs.gov

September 6, 2016

The Honorable Rob Portman
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

The Honorable Claire McCaskill
Ranking Member
Permanent Subcommittee on Investigations
Committee on Homeland Security & Governmental Affairs Committee
United States Senate
Washington, DC 20510

Dear Chairman Portman and Senator McCaskill:

Thank you for your May 31, 2016, letter concerning the responses we submitted to the questions for the record following the January 28, 2016, hearing by the Permanent Subcommittee on Investigations entitled, "Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children from Human Trafficking."

The Department of Health and Human Services recognizes and appreciates the importance of Congressional oversight and is committed to continuing to work with you regarding your inquiry into this matter. As such, we have provided further information responding to your May 31, 2016, letter in the attached document. We are working with your staffs to further explain how HHS cooperated fully with Federal law enforcement authorities in connection with the Marion, Ohio, criminal matters. In addition, the answers to the remaining questions will be forthcoming in the near future.

We hope you find this information helpful. Please let us know if we can be of further assistance.

Sincerely,

Mark H. Greenberg
Acting Assistant Secretary
Administration for Children and Families

Robert Carey
Director, Office of Refugee Resettlement
Administration for Children and Families

Enclosure

Attachment

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:

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.

HHS's longstanding interpretation of the statute is that this section of the statute is about services, once a child has already been released – not custody.

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, HHS believes that 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." Taken together, HHS believes that 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 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.

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.

8 U.S.C. 1232(c)(3)(B) gives ORR the authority to provide services. Participation in post-release services is a voluntary choice by the sponsor and unaccompanied child, and 8 U.S.C. 1232(c)(3)(B) does not compel their participation. As we wrote previously, 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.

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.

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.

Home studies are conducted before a final placement decision is made for the child, and would not be applicable to a situation in which a Category 3 sponsor fails to appear at an immigration hearing, which would occur post-release. Follow-up services are done post-release. There is no legal impediment to doing follow-up services. However, a substantial increase in the number of children provided post-release services would require additional resources beyond what is currently provided by Congress to the program. And, as discussed above, post-release services are voluntary and if they uncover concerns about the child's well-being, then steps are taken in accordance with applicable state law.

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?

We can only speak to HHS's own authority on this issue and believe we have answered this question.

HHS's longstanding view across administrations is that, under the authorities governing the Unaccompanied Children's 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.

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Shenandoah Valley Social Services

August 1, 2018

Mr. E. Scott Lloyd
Office of Refugee Resettlement C/O
Shenandoah Valley Juvenile Center
300 Technology Drive
Staunton, VA. 24401

Re. [REDACTED] (Physical Abuse/Physical Neglect. Compl. 6/22/18)
[REDACTED] (Physical Abuse/Physical Neglect. Compl. 6/22/18)
[REDACTED] (Physical Abuse/Physical Neglect. Compl. 6/22/18)
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[REDACTED] (Physical Abuse/Physical Neglect. Compl. 6/22/18)

Dear Mr. Lloyd,

Thank you for your cooperation during the recent Child Protective Services investigation. This investigation has been completed according to Virginia State Code (Title 63, Chapter 12-1, Section 63.1-24.17) which deals with complaints alleging child abuse and neglect.

We did not find any clear evidence of abuse or neglect as defined by Virginia State Policy; therefore, we have made an "Unfounded" disposition. The following are recommendations which the Department is making in regards to policy and procedure within the Shenandoah Valley Juvenile Center; while the allegations within the received report were unfounded, the Department believes that the specific population of unaccompanied minors within the Shenandoah Valley Juvenile Center would benefit from access to the following.

1. An evidence-based mental health screening with specific regard to past history of traumatic experienced or witnessed events; this screening is recommended upon admission to the facility, as well as on an as-needed basis as determined by the facility.

"The promotion of self-reliance and protection of citizens through community-based services." PSI-133

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Shenandoah Valley Social Services

2. Evidence-based, trauma-informed mental health services to be administered on an as-needed basis to the population of unaccompanied minors with past history of experienced or witnessed traumatic events as determined by the mental health screening tool and per the facility.
3. Cultural competency training to be administered to all staff upon hiring and on an as-needed basis.

The Department will maintain the information on this investigation for one year after the date of the complaint. The record will be purged after that one year period if there are no subsequent founded or unfounded reports received regarding you or the same child/children within that time period.

Thank you,



Child Protective Services Investigator



COMMONWEALTH OF VIRGINIA

Secretary of Public Safety and Homeland Security

AUGUST 13, 2018

VIRGINIA DEPARTMENT OF
JUVENILE JUSTICE REPORT OF
FINDINGS

**SHENANDOAH VALLEY
JUVENILE CENTER**

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EXECUTIVE SUMMARY

BACKGROUND

In fall 2017, three migrant children detained by the federal government's Office of Refugee Resettlement (ORR) at the Shenandoah Valley Juvenile Center (SVJC) filed a federal class action lawsuit alleging abuse by the guards at SVJC. In early 2018, out of concern for the safety of the residents, Virginia Department of Juvenile Justice (DJJ) certification team reviewed prior certification documents and visited SVJC to monitor and observe conditions in the facility. The certification team did not find any immediate concerns regarding the health and safety of the residents.

On June 21, 2018, a story was published reporting the alleged abuse contained in the lawsuit. The Governor takes these allegations very seriously and, recognizing the severity of the information contained in the lawsuit, directed Secretary Brian J. Moran to initiate an inquiry. The Secretary immediately contacted the director of Department of Juvenile Justice and the Governor's Chief of Staff to identify a plan of action and commenced the investigation.

Findings and the process of the investigation are contained below.

ROLE OF THE DEPARTMENT OF JUVENILE JUSTICE

Pursuant to regulations issued by the State Board of Juvenile Justice, DJJ has oversight but not operational responsibility for locally operated juvenile detention centers. According to 6VAC35-20-36.1, whenever the DJJ becomes aware of a health, welfare, or safety violation in a locally operated detention center, the Department shall take immediate action to correct the violation, if not already done by the program or facility.¹ The actions include reporting the situation to child protective services (CPS), the Virginia State Police, or the local law enforcement agency as applicable. Additionally, 6VAC35-20-37 provides for the DJJ Director to take immediate administrative actions when evidence is found of health, welfare, or safety violations to include but not limited to:

- The immediate removal of juveniles from the program. The immediate removal by DJJ would be limited to court involved youth who are in local or state custody. The Director would notify ORR of the action and ORR is responsible for any removal of youth in federal custody.
- Placing the facility on probationary certification status.

¹Virginia regulation, 6VAC35-101-95, requires the juvenile detention center staff to report all known criminal activity by residents or staff to the facility administrator. The facility administrator shall notify the appropriate persons or agencies to include law enforcement, child protective services and DJJ, if applicable and appropriate, of suspected criminal violations by residents or staff. The law enforcement agency and CPS would determine necessary action.

- Issuing a preliminary order to suspend the certification of the detention center when conditions or practices exist in the facility that pose an immediate and substantial threat to the health, welfare, or safety of the residents.

After DJJ's thorough investigation, it did make referrals to local child protective services, but based on their investigation, determined that no further action was necessary. See Department of Juvenile Justice Report.

The SVJC is an independent juvenile detention facility for youth managed by the Shenandoah Valley Juvenile Center Commission. SVJC staff are not state employees. Furthermore, DJJ does not have any official relationship or jurisdiction over the ORR, nor the federally supervised youth at SVJC. The ORR is a federal program under the U.S. Department of Health and Human Services (HHS) that works with unaccompanied minors while their immigration cases are pending.

Unaccompanied minors are immigrant youth under the age of 18 who have no parent or legal guardian in the United States. Unaccompanied minors are placed at SVJC when ORR has determined that a less secure placement would not be appropriate. The DJJ has no contractual relationship with ORR, nor auditing or monitoring authority or responsibility over the federal youth housed at SVJC. The federal youth program is audited and overseen solely by ORR. Pursuant to a cooperative agreement that SVJC entered with ORR and HHS, ORR monitors SVJC for compliance with their requirements through announced and unannounced monitoring visits. These are not the youth who have been subject to the recent family separation policies of the Trump administration.

SECRETARY OF PUBLIC SAFETY AND HOMELAND SECURITY AND DEPARTMENT OF JUVENILE JUSTICE INQUIRY

On the evening of June 21, 2018, upon the Governor's directive, Secretary Moran and DJJ Director, Andrew Block, met with the SVJC Superintendent and toured the facility, including visiting the units housing the youth in ORR custody.

On June 21, 2018, with permission and conditions set by ORR, the DJJ certification and quality assurance teams conducted interviews with SVJC staff and all federal residents at SVJC at that time. According to the SVJC, none of the youth originally named as plaintiffs in the October '17 lawsuit were still present at SVJC during the visits and interviews. Additionally, a protective order had been entered in March 2018 that prohibits SVJC and ORR from disclosing the identities of any of the plaintiffs in the litigation. The following day, the Secretary participated in a call with DJJ detailing the results of their interviews at the facility. The team, with the addition of DJJ investigators who are sworn law-enforcement officers, returned to SVJC on June 25 to continue their interviews and review the files of federal residents.

On June 22, 2018, Secretary Moran communicated with Virginia’s Congressional delegation and other government leaders, including all members of the Virginia General Assembly. He provided them with a fact-sheet and other details relevant to the investigation and the facility’s relationship with the Commonwealth.

On June 27, 2018, Secretary Moran and Governor’s Office staff completed a conference call with Scott Lloyd, Director of ORR, and Laura Trueman, Principal Deputy Director of the Office of Intergovernmental and External Affairs at HHS, regarding standard overview of facilities in Virginia and other background and operational information.

THE FINDINGS

On June 28, the DJJ submitted a preliminary report and Child Protective Services (CPS) provided an update to their investigation to Secretary Moran. The conclusions of their investigations indicate that there were no life, health, or safety concerns for the residents at SVJC.

As of July 3, CPS completed its investigation into the allegations of abuse and found that there was no evidence of abuse or neglect (*see accompanying DJJ and CPS reports*).

INTRODUCTION

On June 21, 2018, Governor Ralph Northam requested Brian J. Moran, Secretary of Public Safety and Homeland Security, and the Department of Juvenile Justice (DJJ) to conduct an inquiry into the allegations contained in a lawsuit regarding the safety of federal residents housed at the Shenandoah Valley Juvenile Center (SVJC). At the time of the inquiry there were 22 residents placed by the Office of Refugee and Resettlement (ORR) at the facility. As reported by the residents, one resident has been there since September 30, 2016, and the other 21 residents were admitted between November 12, 2017, and June 12, 2018. According to the SVJC, the residents who were named plaintiffs in the October '17 lawsuit were no longer in the facility at the time of the interviews.

While the DJJ team found SVJC in compliance with applicable regulations and certification standards, they did identify areas where SVJC could improve programming for the youth in the custody of ORR. Accordingly, this memo includes both a description of the investigative process and findings, as well as a set of recommendations for SVJC.

The memo also includes a recommendation that DJJ will forward to the Board of the Virginia Department of Juvenile Justice: to amend current certification standards so that DJJ can better track the youth who are housed in local detention centers but in the legal custody of a different agency.

REVIEW PROCESS

Following the Governor's directive, a DJJ team of certification and quality assurance staff visited SVJC on June 21, 2018, and June 25, 2018. It is also worth noting that subsequent to the initial filing of the lawsuit in October of 2017, DJJ staff monitored ongoing conditions at SVJC. Specifically, DJJ certification staff conducted a modified certification visit to SVJC to monitor and observe conditions in the facility in March of 2018, and also reviewed prior certification documents to determine if any problems similar to those alleged in the lawsuit had been flagged. Neither the review of prior reports, nor the visit in March identified any immediate concerns about the life, health, and safety of the residents in the facility.

During the June 21 visit, DJJ staff interviewed all of the federal residents at SVJC. The team was not able to substantiate the conditions described in the lawsuit concerning the operations of SVJC or the mistreatment of residents. After obtaining permission from ORR, the team returned on June 25 and reviewed case files, medical files, room confinement forms, and other documentation to assess compliance with regulations relating to the quality of care. For the case review process and interviews, ORR placed the following restrictions:

- Case files are federal property and cannot be duplicated or copied;
- Audit team could not keep written notes of information in case files; and
- A SVJC staff member had to be present for all interviews.

FINDINGS

During interviews, three residents reported that they had experienced abusive behavior by staff. A further review of documentation revealed that two of these complaints were reported by the facility to Child Protective Services (CPS). CPS determined that these complaints did not meet the legal definition of abuse and neglect. Upon further consideration, CPS reopened the two cases and was on-site for a further review to include interviews with all of the federal residents. The third report was an initial complaint that occurred during the interview process and was reported to CPS by DJJ staff.

SVJC uses room confinement as part of its behavior management system to ensure the safety and security of residents, staff, and the facility. During interviews with the federal residents, and supported by room confinement records in the case files, there were no instances where residents were confined more than 24 hours. With the exception of one 23-hour confinement, confinements lasted approximately 4 hours. Pursuant to the case file records, in each instance of confinement, visual inspections of the residents by staff were made at least once every 30 minutes.

The facility uses approved restraints pursuant to the Regulations Governing Juvenile Secure Detention Centers, 6VAC35-101-1130. Review of training records indicated that all staff are trained in the use of restraints through a behavioral management system titled “Handle With Care.”² Per regulation, mechanical restraints shall not be used as punishment; however, they are used for the protection of resident and staff. The regulation requires that SVJC train staff in the use of mechanical restraints including but not limited to the restraint chair and mesh spit guards. The restraint chair is used for out-of-control residents who cannot be safely restrained by less intrusive methods. While in the chair, a mesh spit guard can be placed on the resident’s head to prevent spitting or biting. No residents interviewed had knowledge of the use of the restraint chair. In two instances reviewed, staff were disciplined for using an unapproved physical restraint technique that did not follow “Handle with Care” guidelines. Neither of these restraints related to the use of the restraint chair.

Interviews with staff and residents revealed due process is not well understood and this lack of understanding appears to be related to language barriers. A review of resident files showed disciplinary reports where federal residents acknowledge by noting and signing their right to appeal or not to appeal disciplinary action.

A review of files documented that medical concerns are responded to immediately. However, there was one incident wherein one resident did not receive medication as prescribed because the medication ran out. The resident missed one day of medication.

Regarding nutrition, residents stated they receive three meals a day and one evening snack. A review of resident files indicated special diets are documented and prepared for residents as required.

² See, “Behavioral Management System, Inc.”, Mark Chapman, 1984.

Interviews revealed that residents generally understood the grievance process and how to get issues resolved. Documentation in the files indicated the same.

Two DJJ investigators accompanied the team on June 25 and were tasked with identifying any gang activity. The investigators toured four housing units and observed three gang identifiers relating to MS-13. Two were drawings of the devil horn hand sign used by MS-13 and one was a "MS-13" etched in the window of one of the resident's doors. A fourth gang identifier was an 18th Street symbol scratched into the door of a resident's room. Overall, the housing units were very clean and free from graffiti. When identified by ORR prior to placement at SVJC, the file records indicated that SVJC received the notification of potential gang involvement upon admission.

CHILD PROTECTIVE SERVICES FOLLOW-UP

Based on the referrals from DJJ staff, Child Protective Services (CPS) staff from Shenandoah Valley Social Services conducted follow-up investigations, including individual interviews with a staff member who had allegedly engaged in abusive behavior.

Following these investigations, CPS found no abuse or neglect had taken place.

CONCLUSION AND RECOMMENDATIONS

On June 21, 2018, a DJJ team consisting of five members from the Certification Unit and the Quality Assurance Unit visited SVJC.³ On June 25, 2018, an eight member team from the Certification Unit, the Quality Assurance Unit, and the Investigative Unit also visited SVJC.⁴ CPS staff from Shenandoah Valley also conducted follow-up visits.

During this investigation DJJ staff found no life, health, or safety violations for youth in ORR's custody who have been placed at SVJC. Likewise, CPS, in their investigation, did not find evidence to support allegations of abuse or neglect. The team did find that the SVJC is a well-run facility that attempts to treat its staff and residents with respect and dignity.

While DJJ staff did not find sufficient evidence to support the conditions described in the lawsuit, the DJJ staff nevertheless identified areas where SVJC could strengthen its programming for this uniquely challenging group of youth— young people who have been frequently exposed to high levels of trauma, who are separated from their families, and who confront numerous language and cultural barriers, among others, to succeeding in SVJC and upon their release.

In addition, DJJ identified a gap in its certification authority over local detention centers which is that, without permission from the custodian agency (in this case ORR), DJJ does not have access to the records of youth, nor the youth themselves, who are in the custody of ORR

³ On June 21 2018, the team members included Shelia Palmer (team leader), Clarice Booker, Mark Lewis, Andrea McMahan, and Leah Nielsen.

⁴ On June 25, 2018, the team members included Shelia Palmer (team leader), Clarice Booker, Mark Lewis, Andrea McMahan, Deidre Davis, Nina Joyner, Dennis Sullivan, and John Rohde.

or other third parties. Accordingly, in this memo DJJ has also included a recommendation that it intends to propose at the next DJJ Board meeting.

Finally, while DJJ staff found nothing to indicate their misuse or abuse at SVJC, given the concerns raised by the allegations in the lawsuit about physical restraints more generally, and the fact that the Board of DJJ is charged with regulating their use, DJJ will inform and educate the Board about their use in Virginia in order that the Board may properly consider the current regulations and whether any changes might be necessary.

RECOMMENDATIONS FOR SVJC

RECOMMENDATION 1

SVJC should provide staff with training and professional development in the areas of positive youth development, cognitive behavioral interventions and trauma informed care.

It would benefit SVJC to invest in training for the administrative, management and line staff in the areas of positive youth development, cognitive behavioral interventions and trauma informed care. SVJC operational tenets are geared more toward a correctional philosophy and environment than a therapeutic model. SVJC currently operates a Community Placement Program for DJJ that incorporates the tenets of DJJ's community treatment model. The Missouri Youth Services Institute (MYSI) has trained all staff in the CPP in the principles of a therapeutic environment. As the youth placed by ORR are typically long term residents and similar to DJJ youth in that they have significant exposure to trauma, it would be of value for SVJC to adopt a similar community treatment model framework into the units housing the federal residents. Consistent staff and interactions with residents can diminish aggressive behaviors. If ORR were willing to collaborate with DJJ in this effort, it would promote a consistent philosophical approach within SVJC.

RECOMMENDATION 2

SVJC should increase the staff's understanding of and sensitivity toward the unique cultural backgrounds of the youth in the federal program, expand the culturally relevant programming for these youth, and increase the number of bilingual staff.

Culturally competent practices are crucial for ensuring effective services and treatment delivery to the Latino population at SVJC. SVJC staff need increased awareness of cultural factors that influence the federal residents' behavior and thinking patterns. A lack of social and emotional support networks impact stress and anxiety for the Latino youth and frequently is displayed as aggressive and negative behaviors. SVJC should reach out to and collaborate with local Latino serving agencies for assistance in the development of culturally relevant training and resources, and for assistance with recruitment of bilingual staff. Additional bilingual line staff and mental health counselors that understand the variations in the Spanish language within different Latino cultures would assist in addressing miscommunication and misunderstandings by the federal residents.

RECOMMENDATION 3

SVJC should strengthen the procedures for the use of mechanical restraints and re-train staff on the use of physical and mechanical restraints.

Although SVJC's procedures for mechanical restraints meet certification regulations, the procedure could be clearer and specific to the use of mechanical restraints. The use of a restraint chair and spit guards, as well as when and how it is used, should be better defined. DJJ suggests re-training all staff on the use of all restraints both physical and mechanical to include enhanced training on de-escalation techniques (*see Recommendation 4*).

RECOMMENDATION 4

SVJC should provide ongoing training in the effective use of de-escalation techniques for all staff at SVJC.

SVJC staff require additional training on effective de-escalation practices. De-escalation techniques can prevent disruptive behavior, reduce the need for physical or mechanical restraints, and enhance the safety of the resident and staff. As many de-escalation techniques require effective communication this recommendation is linked to the need for additional bilingual staff.

RECOMMENDATION 5

SVJC should explore design and furniture modifications to create a setting more conducive to working with a population that has high rates of trauma.

SVJC was designed and constructed as a secure juvenile detention center meant to provide short-term confinement for pre-adjudicated youth. At the forefront, it must provide a safe and secure environment for residents and staff and protect the public safety. The physical design of the facility is based on a more traditional correctional setting. Housing units and individual rooms are designed for direct supervision of residents and monitoring by staff inside and outside of the housing areas. As SVJC is not able, without considerable cost, to change the physical design of the housing units or rooms, it should explore other options with regard to furniture styles, arrangement of furniture and paint colors that could help modify the environment and make it more developmentally appropriate and trauma responsive.

RECOMMENDATION FOR VIRGINIA BOARD OF JUVENILE JUSTICE

RECOMMENDATION 1

The Board of Juvenile Justice should promulgate an amendment to the regulations governing local juvenile detention centers to require that any time such a center enters into a contract with a third-party to house youth in the custody of the third-party, the contract must allow for DJJ staff to have the same access to the youth and their records as DJJ has to all other youth in that facility.

RECOMMENDATION 2

DJJ will inform and educate the Board about the use of mechanical restraints in juvenile correctional centers and locally operated juvenile detention centers in Virginia in order that the Board may properly consider the current regulations regarding the use of mechanical restraints and whether any changes might be necessary.

MEMO FROM CHILD PROTECTIVE SERVICES (CPS)

On 06/22/2018, the Shenandoah Valley Department of Social Services (SVDSS) began receiving numerous calls regarding allegations of abuse/neglect, which had been outlined in media reports released on 06/21/2018, as referenced within the executive summary of the DJJ report preceding this appendix. Specific to the calls received were allegations of abuse/neglect by guards against unaccompanied migrant children being detained at the SVJDC. These reports alleged the migrant children to having been “beaten and handcuffed” while also being “tied to chairs with bags placed over their heads”. Additional allegations referenced these minors as being left “nude and shivering within their concrete cells”. While none of these current reports identified any specific alleged abuser(s)/neglector(s), two previous reports had alleged physical abuse by one facility guard in the attempt to restrain two migrant children. As both of these previous reports had been determined invalid of meeting the requirements for a CPS response, it was suggested this decision be reconsidered. Therefore, on 06/22/2018, the SVDSS initiated an investigation into all allegations received.

The SVDSS began the process of interviewing all migrant children on 06/25/2018. This included eighteen children, again, all migrant children housed at the SVJDC. Interviews continued on 06/27/2018 and 06/28/2018 to include both migrant children and a number of administrative and supervisory staff. A final interview with the alleged abuser took place on 07/03/2018.

The interview process with all children included the CPS investigator employed by the SVDSS, the use of an interpreter retained by the SVDSS in addition to oversight by the CPS Regional Consultant with the Virginia Department of Social Services. Interviews with administrative and supervisory staff in addition to the alleged abuser involved the CPS investigator and the CPS regional consultant. The investigative process also included a full tour of the juvenile facility in addition to the review of hard record files for each migrant child. Also reviewed was video footage relating specifically to one of the allegations of physical abuse. Video footage relating to the second allegation of physical abuse was no longer accessible.

In conclusion of the CPS investigation, no information was obtained to implicate any additional alleged abuser(s)/neglector(s). Furthermore, the information obtained through child interviews found no evidence to support the allegations of any mistreatment or neglect. This was further evidenced by a complete tour of the SVJDC and visual inspection/demonstration of the restraint and protective equipment utilized by the facility, which, according to the DJJ, does meet certification regulations. Finally, a face-to-face interview with the alleged abuser and a review of the available video footage specific to the allegations of physical abuse found no preponderance of evidence to support a CPS finding. Verbal notification of these preliminary findings being in support of an unfounded CPS disposition was provided to the alleged abuser and the SVJDC on 07/03/2018. The final report documenting all evidence obtained and including all required, written notifications will be completed by 08/03/2018.

Unaccompanied Alien Children Joint Concept of Operations

July 31, 2018



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List of Acronyms

A-File	Alien File
A-Number	Alien Number
ACF	Administration for Children and Families
CBP	U.S. Customs and Border Protection
COA	Change of Address
COV	Change of Venue
CRCL	Office of Civil Rights and Civil Liberties
DHS	U.S. Department of Homeland Security
DOJ	U.S. Department of Justice
DUCO	Division of Unaccompanied Children's Operations
EOIR	Executive Office for Immigration Review
ERO	Enforcement and Removal Operations
FFS	Federal Field Specialist
FOJC	Field Office Juvenile Coordinator
HHS	U.S. Department of Health and Human Services
HPC	HHS Processing Centers
ICE	U.S. Immigration and Customs Enforcement
IJ	Immigration Judge
INA	Immigration and Nationality Act
JCO	Joint Concept of Operations
JFRMU	Juvenile and Family Residential Management Unit
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NCIC	National Crime Information Center
NTA	Notice to Appear
OFO	Office of Field Operations
OIG	Office of Inspector General
ORR	Office of Refugee Resettlement
ROR	Released on Own Recognizance
SEN	Significant Event Notification
SIJ	Special Immigrant Juvenile
SIR	Significant Incident Report
TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
UAC	Unaccompanied Alien Child(ren)
UAC MAP	Unaccompanied Alien Children Manual of Procedures
USBP	U.S. Border Patrol

Introduction

An unaccompanied alien child (UAC) is defined in statute as 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.

The Department of Homeland Security (DHS) and the Department of Health and Human Services (HHS) each have separate responsibilities for the care, custody, and transfer of UAC. U.S. Customs and Border Protection (CBP) apprehends and holds UAC encountered at or near the border. U.S. Immigration and Customs Enforcement (ICE) apprehends UAC in the interior of the country, is responsible for custody transfer and repatriation activities, and represents the U.S. Government in removal proceedings before the U.S. Department of Justice (DOJ). HHS' Office of Refugee Resettlement (ORR) is responsible for coordinating and implementing UAC care and placement responsibilities once UAC¹ are transferred to the program by DHS, as well as conducting suitability determinations to ensure safe releases of UAC to sponsors who can provide for their physical and mental well-being.

The 1997 *Flores* Settlement Agreement, Homeland Security Act of 2002, (6 U.S.C. § 279), and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) (8 U.S.C. § 1232) directly impact UAC policies and procedures. Departmental guidance, policies, procedures, and interagency agreements further inform UAC operations.

Office of Inspector General (OIG) Report Background

In March 2008, the HHS Office of Inspector General (OIG) issued a report recommending that HHS and DHS establish a Memorandum of Understanding (MOU) that would, "...clearly delineate the role and responsibilities of each Department" with regard to UAC operations. In written comments to the draft report, HHS' Administration for Children and Families (ACF) pointed out that ORR was drafting a Joint Operations Manual with DHS as a first step toward drafting an MOU. Due to intervening changes in statutory authority and other administrative priorities, work on a Joint Operations Manual stalled.

2016 Memorandum of Agreement

On February 19, 2016, DHS and HHS signed a Memorandum of Agreement (MOA) regarding UAC. The purpose was to accomplish the following: continue addressing the needs of UAC to ensure the safe and expedited transfer and placement from DHS to HHS custody; maximize efficiency in the allocation and expenditure of respective program costs; ensure information is transmitted to facilitate appropriate placement decisions 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 the departments with respect to UAC placement determinations; protect UAC in the custody of the United States or

¹ Certain UAC from contiguous countries (Mexico and Canada) will not be transferred to ORR.

released to sponsors from mistreatment, exploitation, and trafficking; and promote effective immigration processing as well as the safe repatriation and reintegration of UAC.

Working Group Structure

The 2016 MOA called for the establishment of a working group comprised of UAC subject matter experts from both departments to address operational matters for inclusion in a Joint Concept of Operations (JCO). The working group from HHS included ORR staff from a diverse group of backgrounds including supervisory program operations staff; field components; grantee oversight; monitoring and compliance; and policy and procedures. The working group met on several occasions in late 2016 and concluded that a JCO outlining the responsibilities of DHS and HHS in the overlapping operations concerning processing, care (services), and transportation of UAC, would fulfill each responsibility required under Paragraph 4A of the 2016 MOA. The co-chairs of the working group left open the possibility of further collaboration on additional overlapping topic areas for inclusion in the JCO outline once the initial draft is published in order to further document joint efforts between the agencies or address operational issues in a cooperative manner.

2018 Memorandum of Agreement

On April 13, 2018, ORR, ICE, and CBP entered into a new Memorandum of Agreement (MOA) regarding consultation and information sharing practices between the agencies. In the 2018 MOA, ORR agreed to do the following: fingerprint all sponsors and adult members of the sponsor's household prior to the release of a UAC from ORR care and custody; transmit fingerprints/biographic information on sponsors and adult household members to DHS while a UAC is in ORR care; and to report certain situations or incidents to DHS component agencies as outlined in the MOA. DHS agreed to provide ORR certain documents at the time of initial referral necessary for ORR to make informed placement decisions; provide ORR with criminal history information or investigatory information, to the extent allowed by law, that would aid ORR in making care and placement decisions for UAC; provide ORR summary responses to fingerprint/biographic submissions, specifically immigration status information, criminal history checks of the national databases, and checks for wants and warrants. The 2016 MOA remains in effect and is not superceded by the 2018 MOA.

Purpose and Scope

This Joint Concept of Operations memorializes current practices in accordance with:

- Homeland Security Act of 2002, Pub. L. No. 107-296, § 462, 116 Stat. 2135, 2202 (codified at 6 U.S.C. § 279);
- Immigration and Nationality Act of 1952 (INA), Pub. L. 82-414, 66 Stat. 163, 8 U.S.C. ch. 12;
- Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Pub. L. No. 110-457, § 235, 122 Stat. 5044 (codified in principal part at 8 U.S.C. § 1232);

- Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §15607, Jenny Lisette Flores, et al. v. Janet Reno, Attorney General of the United States, et al., Case No. CV 85-4544-RJK (Px) (C.D. Cal. 1996) (*Flores* Settlement Agreement);
- Memorandum of Agreement ORR-ICE-CBP Regarding Consultation and Information Sharing in UAC Matters (April 13, 2018) (MOA ORR-ICE-CBP);
- Memorandum of Agreement DHS-HHS Regarding Unaccompanied Alien Children (February 22, 2018). (MOA 2016);
- Departmental and agency guidelines, policies, and procedures.

I. TRANSPORTATION

Transportation from DHS custody to HHS custody and determination of placement while in HHS custody, is a shared responsibility between CBP, ICE – Enforcement and Removal Operations (ICE/ERO), and HHS/ORR.

A. PLACEMENT INTO ORR CUSTODY

1. Notification

a. Responsible Agency:

- i. ORR makes the placement determinations and notifies both the Referring Agency and the facility's representative by email ("Placement Confirmation") when UAC placement has been obtained, which must occur within 72 hours of the UAC determination. See UAC MAP, sections 1.3.1-1.3.2
- ii. Upon placement confirmation from ORR, ICE/ERO is responsible for facilitating the UAC transfer from DHS custody to HHS custody. See ORR Policy Guide, section 1.1; UAC MAP, section 1.3.4.
- iii. ICE/ERO is responsible for transfer to ORR care provider facilities after ORR designates placement. ICE/ERO may have local agreements in place with CBP to conduct transfers to ORR care providers.
- iv. In most areas, the ICE/ERO transportation contractor coordinates directly with CBP and HHS for operational arrangements and estimated time of arrival notices. To meet the statutorily mandated 72-hour transfer requirement the ICE/ERO transportation contractor tracks movements from the Referring Agency's time of UAC determination.

b. Timeframe/Deadline:

- i. Notification to ORR should be made as soon as possible, but no later than 48 hours after apprehension or any claim or suspicion that an alien in custody is under the age of 18.²
- ii. Notification to ICE/ERO for transportation is made immediately upon receipt of placement notification.

c. Requirements:

- i. *UAC Initial Placement Referral Form:* The *UAC Portal* should be used whenever feasible. However, in the event that the *UAC Portal* is not

² 8 U.S.C. § 1232(b)(2).

available, a placement request can be submitted by completing the *UAC Initial Placement Referral Form* and submitting to the ORR Intakes mailbox. A completed *UAC Initial Placement Referral Form*, along with any supporting documentation, should be scanned and emailed to orrducs_intakes@acf.hhs.gov (with read receipt), or faxed to (202) 401-1022. If there are concerns regarding the placement request, please call ORR Intakes directly at (202) 401-5709. See UAC MAP, sections 1.3.1-1.3.2

- ii. For UAC with indicators requiring placement in a restrictive setting (e.g. secure, staff secure, or residential treatment facility), Intakes staff additionally complete the *Intakes Placement Checklist* and forward the placement request to an ORR FFS Supervisor for a final placement decision. The Intakes team communicates the final placement decision to DHS. See UAC MAP sections, 1.2.4; 1.3.2

2. Preparation

a. Responsible Agency:

- i. Prior to transporting, CBP and ICE are responsible for ensuring that the UAC has been processed, charging documents have been properly served as applicable, ORR shelter placement has been requested, and bed space is confirmed.
- ii. CBP is responsible for the initial medical screening. The CBP Transport, Escort, Detention, and Search (TEDS) policy states that if officers/agents suspect that a detainee has an observed or reported medical condition, such as a contagious disease, appropriate protective precautions must be taken and any required notifications be made according to the operational office's policies and procedures.

b. Timeframe/Deadline:

- i. If a UAC encountered at a land border or port of entry of the United States does not meet criteria for withdrawal of an application for admission per 8 U.S.C. §§ 1232(a)(2)(A) and (B), or if no determination can be made within 48 hours of apprehension in accordance with 8 U.S.C. § 1232(a)(4), the UAC must be transferred to ORR within 72 hours after the UAC determination.³

c. Requirements:

- i. *IHSC-795J*, Medical Summary (Juvenile): The UAC cannot travel without a recent medical summary, including an attached list of any medications.

³ 8 U.S.C. § 1232(a)(4).

- ii. *CBP-93, UAC Screening Addendum*: Utilized, as appropriate, to assess the likelihood that a UAC has been a victim of trafficking or is at risk of being trafficked, has a fear of return, and assesses the child’s ability for independent decision-making.
- iii. *Form I-770, Notice of Rights and Request for Disposition*: DHS must provide this form to all UACs.

3. Logistics

a. Responsible Agency:

- i. ICE/ERO is required to provide appropriate numbers of escort and transportation vehicles for transporting UAC, in accordance with agency policy.
- ii. Non-Secure Staff/Shelter
 - 1. *Commercial Air*: The ICE/ERO UAC transportation contractor coordinates directly with HHS, and CBP as appropriate, for operational arrangements and estimated time of arrival notices. The ICE/ERO UAC transportation contractor provides unarmed escorts nationwide on long-distance commercial air services of UAC that terminates at non-secure ORR shelters.
 - 2. *Ground Transport*: The ICE/ERO UAC transportation contractor also provides ground transportation to local ORR shelters in some areas.
 - 3. *Charter*: The ICE/ERO UAC transportation contractor can coordinate charter flights for travel to New York, Chicago, Miami, and Phoenix, if approved by ICE/ERO Juvenile & Family Residential Management Unit. These cities have high concentration of ORR shelter beds.

iii. Secured Staff Shelter

- 1. ICE/ERO conducts transportation to ORR secure and staff-secure facilities.

b. Timeframe/Deadline:

Movements are conducted expeditiously to ensure there are no TVPRA violations. In most cases, transportation occurs within 24 hours of placement confirmation.

c. Requirements:

- i. Notification to ORR through U.S. Border Patrol's (USBP) system of record (E3) or the *UAC Portal* includes (see UAC MAP, sections 1.1, 1.3; 2018 MOA ORR-ICE-CBP, Section IV(A)(1)):
 - 1. Basic UAC Biographical Data (name, date of birth, country of birth, potential sponsor information);
 - 2. Situational Factors (Health, Pregnancy, travel companions, etc.);
 - 3. Human trafficking indicators; and
 - 4. Known criminal or behavioral issues, including arrests, criminal charges and convictions, immigration history, gang affiliation or suspected gang affiliation, and violence or behavioral concerns.
- ii. ORR Placement Confirmation email notification, which includes (see UAC MAP, section 1.3.3; 2018 MOA ORR-ICE-CBP, Section IV(A)(3)):
 - 1. Basic UAC Biographical Data;
 - 2. Care provider facility name and address; and
 - 3. Facility point-of-contact name and phone number.
- iii. *DHS I-191*: ICE/ERO generates *DHS I-191*, Accounting for Disclosure, for each record, or group of records disclosed to ORR.

4. Custody Transfer

- a. Responsible Agency:
 - i. ORR assumes custody upon physical arrival of UAC at the designated care provider facility. See ORR Policy Guide, section 1.1.
- b. Timeframe/Deadline:
 - i. Except in the case of exceptional circumstances, any department or agency of the Federal Government that has a UAC in its custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is a UAC.
- c. Requirements:
 - i. The custody-transfer packet includes (see UAC MAP, section 1.3.4; MOA ORR-ICE-CBP, section IV(A)(2)):

1. Copies of all identification documents;
 2. *Form I-213*, Record of Deportable/Inadmissible Alien;
 3. *Form I-216*, Record of Person and Property Transferred;
 4. *Form I-217*, Information for Travel Document or Passport;
 5. *Form I-862*, Notice to Appear or charging document;
 6. *Form I-770*, Notice of Rights and Request for Disposition for Minors;
 7. *Form I-200*, Warrant for Arrest of Alien;
 8. *CBP Form 93*, UAC Screening Addendum (trafficking information), if conducted;
 9. Copies of any publicly available federal, state, or local criminal records in possession of the apprehending DHS Component (ICE or CBP) at the time of transfer describing any gang, immigration, criminal or other activity that may affect placement, including *Orantes* notification as applicable;
 10. *DIHS-794*, In-Processing Health Screening Form;
 11. Any medical paperwork (e.g., hospital records); and
 12. List of medications.
- ii. Although it is standard operating procedure for ICE/ERO to deliver custody transfer packets in the manner prescribed in this section, an ORR care provider cannot refuse to accept a UAC because of missing DHS-issued paperwork, without ORR's permission. See ORR Policy Guide, section 1.3.3.

B. DISCHARGE FROM ORR CUSTODY

1. Notification

- a. Responsible Agency:
 - i. Release to Sponsor: ORR is responsible for notifying ICE/ERO that a UAC is being prepared for release, and again when a UAC is released. See ORR Policy Guide, section 2.8.2; 2.8.3; UAC MAP, section 2.8.
 - ii. Age-Outs: ORR is responsible for notifying ICE/ERO that a UAC is turning 18 years old or that an age-determination has found the alien to be more than 18 years old. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.

- iii. Voluntary Departure/Final Orders of Removal: ICE/ERO will notify ORR that a UAC in ORR's custody was granted Voluntary Departure or was issued a Final Order of Removal.⁴
- b. Timeframe/Deadline
- i. Release to Sponsor: The ORR care provider will notify ICE/ERO at least 24 hours prior to the UAC's physical release from ORR custody. The ORR care provider will notify ICE/ERO again within 24 hours of the UAC's physical release. See ORR Policy Guide, section 2.8.2; 2.8.3; UAC MAP section 2.8.
 - ii. Age-Outs: The ORR care provider and/or ORR/Federal Field Specialists (FFS) notify ICE/ERO that the child will be turning 18 years old approximately 30 days before the UAC's 18th birthday, and again 24-hours prior to the UAC's 18th birthday. In the case of an age redetermination, ORR will notify ICE/ERO within three (3) calendar days from when ORR reasonably suspects that an individual in ORR's custody is over 18 years old. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.
 - iii. Voluntary Departure/Final Orders of Removal: ICE/ERO will notify ORR and the ORR care provider within three (3) business days of a grant of Voluntary Departure or the entry of a Final Order of Removal issued for a UAC in ORR custody.
- c. Requirements:
- i. Release to Sponsor: The ORR care provider provides a *Discharge Notification* to ICE/ERO with the UAC's biographical information, the name of the UAC's sponsor, the relationship to the sponsor, and the sponsor's address. See ORR Policy Guide, section 2.8.3; UAC MAP, section 2.8.
 - ii. Age-Outs: The ORR care provider and/or ORR/FFS will notify the ICE/ERO ICE/ERO Juvenile Coordinator via email of the pending Age-Out. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.
 - iii. Voluntary Departure/Final Orders of Removal: ICE/ERO transmits copies of the Immigration Judge's order to the ORR care provider and ORR/FFS. ICE/ERO is responsible for obtaining necessary travel documents from the consulate of the UAC's country of origin.

2. Preparation

⁴ It is likely that a UAC's attorney will notify ORR and the child ORR care provider prior to the ICE/ERO notification of the immigration case outcome. However, ICE, as the prosecuting office, will be in the best position to notify ORR in all cases.

a. Responsible Agency:

i. Release to Sponsor: ORR is responsible for preparing the UAC for transport to a sponsor, with assistance from the sponsor as required. ORR, working with the ORR care provider, will follow all ORR policies regarding adult escorts to ensure UAC arrive safely to a point of release with the UAC's sponsor. See ORR Policy Guide, section 2.8.2.

ii. Age-Outs:

1. Post-18/Release on Own Recognizance (ROR), and all other cases: Attorney and/or ORR/FFS may work with ICE/ERO Field Office Juvenile Coordinator (FOJC) to determine whether a UAC approaching 18 years old may be OREC thereafter. Once the DHS/ICE FOJC has made a decision they will notify the UAC's ORR care provider, attorney, and the ORR/FFS that the UAC may be directly released from the ORR. See ORR Policy Guide, section 3.3.2.

2. Age Determinations/Transfers to DHS custody: For cases where an alien was determined through joint HHS-DHS policies to be over 18 years old or for UAC approaching 18 who are not ROR cases, the ORR care provider will notify the individual and attorney or ORR funded local-legal service provider that the individual is being prepared for transfer to ICE/ERO. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6; TVPRA, 8 U.S.C. § 1232(c)(2)(B).

iii. Voluntary Departure/Final Orders of Removal:

1. The ORR care provider requests that the ORR funded local-legal service provider screen the UAC for immigration relief if the UAC has no legal relief options and no available sponsor and/or the UAC requests an expedited hearing or other hearing before an immigration judge. See ORR Program Guidance, Notice to Appear Changes (July 3, 2014).

2. ICE/ERO has responsibility to notify the local consulate of a pending Voluntary Departure or Final Order of Removal in order to obtain travel documents. DHS and ORR will closely coordinate preparations between each respective agency, the UAC, and the consulate, as required.

b. Timeframe/Deadline:

i. Release to Sponsor: ORR care providers are expected to physically release the UAC within three (3) calendar days of an ORR/FFS approving the release, absent exigent circumstances. See ORR Policy Guide, section 2.8.2.

ii. Age-Outs:

1. Post-18/ROR: ORR care provider submits a *Post-18 Plan* to ICE/ERO FOJC two (2) weeks prior to UAC's 18th birthday, if applicable. See ORR Policy Guide, section 3.3.2.
2. Age Determinations: ORR provides the results of an age re-determination, including relevant evidence to ICE/ERO FOJC within three (3) business days of receiving results. ORR and ORR care provider will follow existing policies to prepare UAC for transfer to ICE/ERO within 30 days of turning 18 years old. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.
3. Voluntary Departure/Final Orders of Removal: Timing for scheduling of expedited hearings is dependent on local immigration court rules, and current joint-EOIR, DHS, and ORR procedures.

c. Requirements:

- i. Release to Sponsor: ORR care providers ensure UAC is prepared for travel; an escort is arranged, if applicable; DHS has been notified of the pending release; and, the sponsor and UAC's family have received notification of the pending release. See ORR Policy Guide, section 2.8.2; UAC MAP, section 2.8.
- ii. Age-Outs:
 1. Post-18/ROR: ORR care provider submits the *Post-18 Plan* to the ORR and the ICE/ERO FOJC for comment. *UAC MAP section 3 - PENDING*
 2. Age Determinations: ORR provides the results of an age re-determination, including relevant evidence to ICE/ERO FOJC within 3 business days of receiving results. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.
 3. Voluntary Departure/Final Orders of Removal: DHS provides notice to consulates. DHS is responsible for obtaining travel documents from consulate.

5. Logistics

a. Responsible Agency:

- i. Release to Sponsor: ORR coordinates transportation and logistics directly with sponsor according to ORR's policies and procedures. See ORR Policy Guide, sections 2.8.2; 2.8.3; UAC MAP, section 2.8.
- ii. Age-Outs:

1. Post-18/ROR: Logistics for release are contained in the individual *Post-18 Plan*, agreed to in advance of the UAC turning 18 years old. UAC MAP section 3 - PENDING.
 2. Age Determinations: If an age re-determination indicates the UAC is over age 18, ORR will coordinate with the ICE/ERO FOJC to pick-up the alien for transfer into DHS custody, or other plans as requested. See ORR Policy Guide, section 1.6; UAC MAP section 1.6.
 3. All other cases: The ICE/ERO FOJC coordinates transportation for the UAC with the ORR care provider. Transport will occur on the day the alien turns 18 years old. See UAC MAP, section 1.6.
- iii. Voluntary Departure/Final Orders of Removal:
1. Upon request from a consulate and approval from ORR, the ORR care provider shares relevant contact and background information on a UAC's family in their country of origin. ORR Policy Guide, sections 5.4.6, 5.4.7.
 2. Once the consulate informs DHS that travel documents have been approved and the UAC's family is contacted in the country of origin, DHS makes transportation arrangements for the UAC's repatriation to his or her country of origin. DHS informs the ORR care provider of the repatriation and coordinates with the provider the date and time ICE/ERO will arrive at the facility to transport the UAC for repatriation.
- b. Timeframe/Deadline:
- i. Release to Sponsor: The ORR care providers are expected to physically release UAC within three (3) calendar days of an ORR/FFS approving the release, absent exigent circumstances. See ORR Policy Guide, section 2.8.2; UAC MAP, section 2.8.
 - ii. Age-Outs: Logistics for age out cases should be completed at least three (3) calendar days prior to the UAC turning 18 years old, but in no event less than 24-hours prior to the UAC's 18th birthday. UAC MAP, section 1.6.2.
 - iii. Voluntary Departure/Final Orders of Removal: Repatriation of UAC will occur between 5 to 15 days of receiving travel documents from the consulate.
- c. Requirements:
- i. Release to Sponsor: Requirements follow ORR's general policies for release to a sponsor are found in the ORR Policy Guide, Section 2. ORR provides a copy of the appropriate Discharge Notification to the local ICE/ERO FOJC

and to the Immigration Court with jurisdiction over the UAC's case. The discharge notification form should include:

1. Date of Discharge
2. UAC Name
3. UAC A#
4. UAC Date of Birth
5. UAC Country of Birth
6. Sponsor's Name
7. Relationship to Sponsor
8. Sponsor's Address (verify the validity of the address given by using the U.S. Postal Service webpage).
9. Sponsor's Telephone Number

ii. Age-Outs:

1. Post-18/ROR: *Post-18 Plan*; Birth certificate, copy of ICE/ERO email confirming ROR. *UAC MAP section 3 – PENDING.*
2. Age Determinations: Copy of documents used to verify age, including but not limited to (see ORR Policy Guide, section 1.6.2):
 - i) Official government-issued documents, including birth certificates. If the UAC in question is not in possession of original documentation, or if the authenticity of the original documentation is in question, government officials of the UAC's home country must be consulted in order to verify the validity of the documentation, in accordance with applicable privacy rights (e.g., protection of asylum seekers).
 - ii) Other reliable records (e.g., baptismal certificates, school records, medical records) that indicate the UAC's date of birth.
 - iii) Statements provided by the UAC regarding his or her age or birth date. Note: A UAC's uncorroborated declaration regarding age is not used as the sole basis for an age determination.
 - iv) Statements from the UAC's parent(s) or legal guardian(s), if such persons can be identified and contacted.
 - v) Statements from other persons.
 - vi) Information from another government agencies (Federal, State, local or foreign).
 - vii) State/local arrest records.
 - viii) Child welfare agency records.
 - ix) Medical records, including copies of documents used to make a medical age assessment. In accordance with 8 U.S.C. §1232(b)(4), neither DHS nor HHS relies exclusively on radiographs to determine age.

3. All other cases: ICE/ERO provides order confirming UAC to be remanded into DHS custody.
- iii. Voluntary Departure/Final Orders of Removal: ICE/ERO FOJC notifies ORR and the ORR care provider of the imminent transfer of custody, and to prepare the UAC for travel. ORR care provider will ensure all needed legal documents are maintained and collected for copy into the UAC case file.
1. If an Immigration Judge orders a UAC removed from the United States or grants voluntary departure, DHS arranges for the UAC's safe return to his or her country of origin or last habitual residence according to applicable policies and procedures.
 2. DHS recognizes that UAC are particularly vulnerable population and must be repatriated with special consideration and care. To safeguard the welfare of all UACs, DHS Components follow established policies⁵ whenever repatriating UAC through the following actions:
 - i) Repatriate during only daylight hours;
 - ii) Ensure receiving government official or designee signs for custody to record the transfer;
 - iii) Repatriate the UAC at a designated port of entry;
 - iv) Provide the UAC an opportunity to communicate with a consular official prior to departure; and
 - v) Preserve the unity of families during repatriation (for repatriation to Mexico, doubts of kinship should be coordinated with the Consulate of Mexico to safeguard the UAC's well-being).
 3. The majority of UAC repatriations conducted by ICE/ERO occur via commercial air. ICE/ERO provides two escort officers for each UAC. An additional officer is added for each group that exceeds five UACs. Instances where both male and female children are being transported require an escorting officer of each gender.

⁵ Note that current DHS policies regarding repatriation of UAC from non-contiguous countries go beyond what is statutorily required in 8 U.S.C. §USC 1232(a)(2)(C).

II. PROCESSING

DHS and HHS collaborate and coordinate the processing of all UAC. In so doing, the agencies comply with 6 U.S.C. § 279 and all agency internal policies, procedures, and guidance to ensure that UAC are treated with dignity and respect and with special concern for their vulnerability as UAC. The agencies also adhere to the TVPRA. All UAC are processed expeditiously and are given priority over other aliens in custody in order to move them swiftly to HHS/ORR placement.

Immediately after a minor is apprehended, one of the first tasks of the apprehending DHS component is to determine age, identity, and immigration status. As age and identity are determined, the apprehending DHS component creates an Alien File (either a permanent “A-file” or a temporary “T-file”), according to departmental guidelines prior to transfer of the UAC to ORR. The A-file or T-file must generally contain, at a minimum, the original *Form I-862* Notice to Appear (NTA), with signature and service on the alien (if the UAC is above 14 years of age), plus three copies, and any documentary evidence. If the UAC is below 14 years of age, then the certificate of service on the NTA will be served upon HHS/ORR when the custody of the UAC is transferred. The ICE/ERO FOJC provides instructions to the apprehending agency for delivery of the A-file or T-file to ICE/ERO.

A. Immigration Process Matters

1. Issuing NTAs to UAC (*under 14; 14 and over*)

a. Responsible Agency:

- i. Upon encountering a potential UAC, the relevant agency must identify the age, identity, and immigration status of the minor. If the UAC is determined to be 14 years of age or older, an officer of the apprehending agency may take fingerprints of the UAC and initiate a search in the IDENT system to verify identity and determine if there have been any prior DHS apprehensions. The officer or agent will also initiate a criminal record check to establish if the UAC has had any previous criminal history.
- ii. NTAs can only be signed by UAC 14 years of age and older, and must be left blank for UAC under 14 years of age.
- iii. For UAC under 14 years of age, the NTA must be personally served on the “conservator.” In most cases, the conservator will be an ORR care provider facility employee. ICE/ERO FOJC is responsible for visiting the ORR facility to personally serve the conservator, ensuring that the conservator legibly signs the NTA and prints his or her name and title beneath the signature. This requirement will ensure that ICE/ERO can demonstrate proper service of the NTA to the immigration court.

b. Timeframe/Deadline:

- i. UAC that are 14 years of age and older will be issued NTA prior to transfer to the custody of ORR.
- ii. When CBP issues an NTA to a UAC under 14 years of age, it may be necessary to delay service of the NTA until custody can be transferred to ORR. ORR should sign the NTA and other legal documentation and receive all copies of legal documentation on behalf of the UAC.
- c. Requirements: Refer to JCO Section I(A)(4)(c)(i) for relevant documents provided in the DHS Transfer Packet. See also UAC MAP, section 1.3.4; 2018? MOA ORR-ICE-CBP, section IV(A)(2).

2. Filing NTAs (*special procedures*)

- a. Responsible Agency:
 - i. Generally, CBP initiates the vast majority of removal proceedings for UAC.
 - ii. ICE/ERO also encounters UAC during interior enforcement operations, initiates removal proceedings, maintains and performs general UAC case management, and resolves any issues with the A-File and NTA to ensure proper service and to file the NTA with the DOJ's EOIR.
- b. Timeframe/Deadline:
 - i. The NTA is filed (i) 60 days after the UAC's apprehension (a UAC in an ORR care provider facility); (ii) upon notice by ORR to file the NTA while the UAC is in an ORR care provider facility; or (iii) upon notice provided in the ORR *Discharge Notification* form that a UAC was released to a sponsor (in the jurisdiction of the UAC located at sponsor's address). See ORR Program Guidance, Notice to Appear Changes (July 3, 2014).
- c. Requirements:
 - i. ICE/ERO requires a properly served NTA to file with EOIR in order to initiate immigration proceedings.

3. Information Requests between HHS and DHS

- a. Responsible Agency:
 - i. ORR:

1. Case File Information: ORR is responsible for processing DHS requests, as applicable, for information on all UAC in ORR custody and for information contained in UAC case files. See Requests for UAC Case File Information (September 23, 2013).
2. Unauthorized Absence notices: In the event that a UAC absconds from ORR custody, ORR is responsible for notifying the local ICE/ERO FOJC with jurisdiction over the case. ORR will immediately notify local law enforcement agencies. See ORR Policy Guide, section 5.8.1.
3. Allegations of Abuse in DHS custody:
 - i) For an allegation of sexual abuse that occurred while the UAC was in DHS custody, the ORR care providers must report the allegation to the DHS Office of Civil Rights and Civil Liberties (CRCL), CBP, and ICE. See ORR Policy Guide, section 5.8.4.
 - ii) If a UAC makes an allegation of abuse, other than sexual abuse, that occurred while he or she was in the custody of DHS, ORR care providers must report the incident to DHS by emailing a copy of the significant incident report (SIR) to CRCL. See ORR Policy Guide, section 5.8.4.
4. Death of a UAC in ORR custody: ORR reports deaths of UAC in ORR custody to the ICE/ERO FOJC with jurisdiction over the case. See ORR Policy Guide, section 5.8.1.
5. Arrest of a UAC in ORR custody: The ORR funded care provider contacts the DHS/ICE FOJC with jurisdiction over the case by telephone and provides notice by email. See MOA ORR-ICE-CBP, section IV(B)(1).
6. Alleged or suspected fraud, human smuggling, human trafficking, drug trafficking, weapons trafficking, or gang-related activity. ORR notifies the ICE Homeland Security Investigations Tip Line by email and, for human trafficking specifically (either by or of a UAC), ORR also emails the ICE Human Trafficking Help Desk. See MOA ORR-ICE-CBP, section IV(B)(1).
7. Violence by a UAC while in ORR care. ORR notifies the ICE/ERO FOJC of incidents of physical violence or assault by a UAC in its care, including incidents between a UAC and facility staff. See MOA ORR-ICE-CBP, section IV(B)(1).

8. Change in level of care. ORR provides notice by email to the ICE/ERO FOJC of any step up/step down to or from secure care for the UAC. See MOA ORR-ICE-CBP, section IV(B)(1).

ii. DHS

1. If ICE or CBP becomes aware of any criminal information (e.g., information regarding gang affiliation) that it did not have at the time of initial referral and transfer, ICE or CBP will notify ORR as expeditiously as practicable, and as a matter of general practice, within 48 hours after becoming aware of the information. This includes providing supporting documentation to aid in ORR's consideration of whether transfer of the UAC may be necessary.
2. To the extent permitted by law, and consistent with policy, ICE or CBP will report to ORR the results of any investigations (including investigations commenced following ORR's notification under Section IV(B)(1) of 2018 MOA ORR-ICE-CBP) they conduct that would be relevant to ORR's determinations concerning UAC care and placement. Such information will be provided as expeditiously as possible, and ideally within 96 hours of such information becoming available.

b. Timeframe/Deadline:

i. ORR:

1. Case File Information: DHS requests for UAC case file information are triaged and responded to, as soon as possible, according to the nature of the request and any exigent circumstances regarding the request. See Requests for UAC Case File Information (September 23, 2013).
2. While UAC are in ORR care, ORR will notify ICE or CBP of incidents identified in section (3)(a)(i)(1)-(8) as expeditiously as possible, but no later than 48 hours after discovery of the incident. See MOA ORR-ICE-CBP, section IV(B)(1).

c. Requirements:

i. ORR:

1. Case File Information: Request for UAC case file information will follow ORR's policies regarding the disclosure of confidential information to government agencies.⁶ Additionally, the requesting party must file an

⁶ See [Requests for UAC Case File Information](#).

*Authorization for Release of Records.*⁷ ORR may redact information as required to protect the privacy or confidentiality of non-subjects to the request. ORR does not typically share psychiatric or psychological records absent a court-issued subpoena for those records. See Requests for UAC Case File Information (September 23, 2013).

2. ORR follows reporting requirements as outlined in the 2018 ORR-ICE-CBP MOA as described in (a)(i)(3) and (b)(i)(2) above.

4. Change of Address/Change of Venue Notices

a. Responsible Agency:

- i. ORR is responsible for the filing of applicable Change of Address (COA) and Change of Venue Notices (COV), for UAC transferring placement between ORR care provider facilities (including Long Term Foster Care providers). The UAC's sponsor is responsible for COA/COV notices for the UAC once the UAC is released. See ORR Policy Guide, section 1.4.2; UAC MAP, section 1.4.

b. Timeframe/Deadline:

- i. Transfers: The ORR care provider case manager at the referring ORR care provider completes copies of the immigration court COA/COV documents and the *Notice of Transfer to the ICE Chief Counsel Change of Address/Change of Venue*. UAC MAP, section 1.4.
- ii. Releases: The ORR care provider facility provides the sponsor with the local immigration court's change of address/change of venue information, if the UAC's NTA has already been filed with the immigration court. See UAC MAP, section 1.4.

c. Requirements:

- i. Transfers: Copies of COA/COV and the UAC's NTA are sent to the receiving jurisdiction's immigration court and emailed or mailed to the local ICE/ERO FOJC and the local ORR-funded Legal Service Provider (LSP). See UAC MAP, section 1.4.

⁷ The *Authorization for Release of Records*, normally requires the consent of the UAC prior to release of their records in most instances. ORR has an exception to this requirement for other government agencies requesting UAC case files. ORR will examine the nature of the request, including the reasons for the requested information, and make a determination on a case-by-case basis on what information to release, if any, to DHS. Typically, a UAC's health information is not disclosed, nor is a sponsor's home study or post-release service information unless relevant to the DHS request.

- ii. Releases: Prior to the physical release to a sponsor, the ORR care provider case manager will ensure the UAC (as appropriate) and sponsor are educated on the COA/COV process and informed on how to file for and verify that COA and COV has been completed. See ORR Policy Guide, section 2.8.1; UAC MAP, section 2.8.

B. Referral & Placement Process

1. Notification of Referral (*referral to ORR*)

a. Responsible Agency:

- i. The apprehending DHS agency is responsible for the notification to ORR of a UAC requiring placement. See ORR Policy Guide, section 1.1.

b. Timeframe/Deadline:

- i. The referring DHS component will notify ORR, once the referring agency or apprehending agency has identified a minor as a UAC or with any claim or suspicion that an alien in their custody is under 18 years of age. Notifications will be made as soon as possible, but not to exceed 48 hours after the UAC determination.

c. Requirements:

- i. Once a UAC has been identified, a request for ORR placement must be submitted via ORR's *UAC Portal*. Generally, it is the apprehending agency's responsibility to refer the child to ORR via the *UAC Portal*. USBP has developed an electronic process whereby information entered into its system of record (E3) is automatically transferred into ORR's *UAC Portal*. All ICE/ERO FOJCs should have access to the *UAC Portal*. See UAC MAP, section 1.3. In the event a child is separated from a parent or other related adult USBP or ICE will enter this information into the *UAC Portal*.
- ii. In the event that the *UAC Portal* is not available, a placement can be requested by completing the *UAC Initial Placement Referral Form* and submitting to the ORR intake mailbox at Orrducs_Intakes@acf.hhs.gov. See UAC MAP, section 1.3.
- iii. The referring agency will complete the *UAC Initial Placement Referral Form* in its entirety, including as much detail as possible. The referring agency should review and verify all information to ensure accuracy of UAC medical information (where possible), UAC's criminal records (if applicable), sibling or other family with whom the UAC was traveling. Contact information for parents, legal guardians, or adult relatives should also be included, as this information can assist in ORR's reunification process. Medical conditions

and criminal history must be disclosed if known, to allow ORR to place each UAC in a facility that is equipped to handle that UAC's specific needs. See UAC MAP, sections 1.3, 1.3.2.

2. Placement Process

- a. Responsible Agency:
 - i. ORR is responsible for the prompt placement designation of UAC referred to the agency by other Federal agencies and departments. See ORR Policy Guide, sections 1.1, 1.2.

- b. Timeframe/Deadline:
 - i. ORR attempts to designate placement within 3 hours during standard business hours, assuming there are no exigent circumstances, but within 24 hours in most cases. See UAC MAP, section 1.3.2
 - ii. DHS transfers physical custody of the UAC to ORR within 72 hours of the UAC determination. See ORR policy Guide, section 1.2.

- c. Requirements:
 - i. At the time of placement designation, DHS will be responsible for providing ORR the information referred to in JCO, Section I (A)(3)(c)(i):
 - ii. ORR considers the following factors when making a placement determination (See ORR Policy Guide, section 1.2.1):
 1. Trafficking or other safety concerns;
 2. Any special needs or issues requiring specialized services (for example, a child with language needs, mental health or medical concerns, or a youth who is pregnant or parenting);
 3. Possibility of heightened vulnerability to sexual abuse due to prior sexual victimization;
 4. Prior sexual abusiveness;
 5. Identification as lesbian, gay, bisexual, transgender, questioning or intersex, or gender non-conforming appearance or manner;
 6. Location of potential sponsor and family sponsorship options;
 7. Siblings or parents in ORR custody;

8. Immigration issues (for example, legal representation needs, immigration proceedings);
9. Behavior;
10. Criminal or juvenile background;
11. Danger to self;
12. Danger to the community;
13. Escape risk;
14. Age;
15. Gender;
16. Expected length of stay in ORR custody; and
17. Location where the child or youth was apprehended.

3. Transfers to Long Term Foster Care

- a. Responsible Agency:
 - i. ORR is responsible for Long Term Foster Care (LTFC) placement determinations for UAC. Non-ORR LTFC care providers in conjunction with the ORR/FFS explore viable placement options dependent on the UAC's individual needs and best interest. See ORR Policy Guide, sections 1.2.6, 1.4.3, 1.4.4.
- b. Timeframe/Deadline:
 - i. After determining appropriateness of placement into LTFC, the ORR care provider case manager files a transfer request in consultation with the ORR/FFS. The proposed LTFC provider has ten (10) business days to review the request and supporting documentation and make a request for additional information from the UAC's current care provider case manager. See UAC MAP, section 1.4.4.
 - ii. Requests for additional information by the LTFC provider must be responded to within three (3) business days by the UAC's care provider case manager.
 - iii. The LTFC provider completes and submits a *LTFC Placement Memo* within ten (10) business days of the original transfer request, and submits the

completed memo to the ORR/FFS. The ORR/FFS reviews and communicates the transfer decision (generally within three (3) business days of receiving the completed memo) to the UAC's receiving/sending Case Coordinators, the UAC's care provider case manager, the LTFC provider case manager and the DHS/ICE FOJC. See UAC MAP, section 1.4.4.

c. Requirements:

- i. *LTFC Placement Memo.*
- ii. *Transfer Request.*
- iii. Change of Address/Change of Venue, as applicable.
- iv. Logistics for transfer are coordinated between the sending care provider and the LTFC provider.

III. CARE

Medical clearance, including screening, evaluation, and treatment, is a major component of the processing, movement, and release of UAC. UAC are typically in good health; however, some may have communicable diseases, significant behavioral or mental health issues, access and functional needs, or acute/chronic medical conditions. Likewise, many UAC come into Federal custody with experiences of trauma, including cases of victimization, sexual assault, and human trafficking. Some are pregnant.

UAC services in DHS and HHS custody are based upon the minimum standards of Exhibit 1 and Paragraph 12 of the *Flores* Settlement Agreement, as applicable.

A. SERVICE REQUIREMENTS

1. Medical Evaluation in DHS Custody

a. Responsible Agency:

- i. ICE/ERO conducts a pre-transport screening to evaluate UAC for febrile respiratory disease and visible signs of potential communicable diseases prior to transfer from CBP to an ORR shelter in accordance with the Pre-Transport Screening Protocol. UAC diagnosed with fever, cough, sore throat, or visible signs of potential communicable diseases will not be cleared for transfer via commercial flight. Febrile UAC, or those visually presenting with symptoms mentioned, will be re-submitted to HHS/ORR for re-designation to local ORR shelters.
- ii. While in CBP custody, in accordance with the CBP National Standards on TEDS Policy, CBP Officers and Agents must be alert to medical symptoms such as coughing, fever, diarrhea, rashes or emaciation, in addition to obvious wounds, injuries, cuts, bruising or bleeding, heat related injury or illness, and dehydration. Any observed or reported injury or illness must be reported, and appropriate medical care must be provided or sought in a timely manner. TEDS also requires CBP to be alert to physical, mental, or developmental disabilities that may require particular care or oversight.

b. Timeframe/Deadline:

- i. During intake by CBP or ICE , UAC are screened for obvious diseases, injury, and/or disability and are referred for a medical evaluation, as needed.
- ii. UAC are screened for febrile respiratory disease and visible signs of potential communicable diseases prior to moving to a new location.
- iii. Any UAC with a serious medical condition or complaint will be transported to a local healthcare facility for evaluation and treatment. If still in ICE/ERO

custody, ICE/ERO personnel shall accompany and remain with the UAC until the completion of treatment and official medical clearance is provided.

- iv. If the UAC is hospitalized, appropriate ICE/ERO supervisory notification shall occur.
- v. Transfer: Evaluation for Suitability to Air Transfer. When the UAC is transported to HHS custody, ICE contractors review the paperwork to determine the necessary forms (either IHSC-795J or I-779) are included prior to initiating the transfer.

c. Requirements:

- i. Medical Clearance for Release by either a physician or if the UAC went to a healthcare facility with a medical professional in processing health screening.
- ii. Medical or Hospital Records.
- iii. Medications, if applicable.

2. Health Service Emergencies in DHS Custody

a. Responsible Agency:

- i. DHS shall respond immediately to observed or reported medical emergencies, and contact local emergency medical services when a UAC is determined to need urgent medical care.
- ii. If the UAC is removed from the facility for medical treatment and he or she is in ICE/ERO custody, ICE/ERO personnel shall accompany and remain with the UAC until the completion of treatment and official medical clearance is provided.
- iii. If the UAC is hospitalized, appropriate supervisory notifications shall occur.

b. Timeframe/Deadline:

- i. Within two hours of reportable events or as soon as practical, telephonic notification must be made to the ICE/ERO Deputy Assistant for Field Operations for certain significant incidents, including significant injury or death. For other medical incidents, such as admittance to a hospital for less serious events, telephonic notification is not required, but the incident must be reported through an Executive Summary and Significant Event Notification (SEN) application within 24 hours. ICE/ERO should notify ORR once the UAC is released from the hospital or emergency care facility.

ii. While in CBP custody, CBP assumes the responsibility to provide appropriate medical care for all UACs. Once the UAC is cleared for travel by a competent medical professional, CBP will request placement from ORR via the UAC Portal, to which all medically relevant information is relayed.

c. Requirements:

i. First aid supplies and equipment are the responsibility of each facility. All facilities should have a written emergency medical response plan (access to 9-1-1 and 9-1-1 access to the facility), on which all employees should be educated.

3. Flores minimum standards for licensed facilities:

a. Responsible Agency: ORR is responsible for the minimum standards listed in the *Flores* settlement exhibit 1 for UAC placed in a licensed facility.⁸

b. Timeframe/Deadline: Refer to requirements below for timeframes of minimum standards.

c. Requirements (see *Flores* Settlement Agreement, Exhibit 1; ORR Policy Guide, section 3.3):

i. Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing, and personal grooming items.

ii. Appropriate routine medical and dental care, family planning services, and emergency health care services. A complete medical examination (including screenings for infectious disease) will be conducted within 48 hours of admission, excluding weekends and holidays, unless the UAC was recently examined at another ORR care provider facility; and appropriate immunizations will be provided in accordance with recommendations of the U.S. Department of Health and Human Services /U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC); as will: administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

iii. An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UAC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family

⁸ A "licensed program" refers 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. As applied to ORR care providers, this includes, shelters, groups homes, staff secure facilities, transitional foster care, long term foster care providers.

relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the unaccompanied alien child's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.

- iv. Educational services appropriate to the UAC's level of development and communication skills in a structured classroom setting Monday-Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program shall include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide unaccompanied alien children with appropriate reading materials in languages other than English for use during leisure time.
- v. Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- vi. At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short-term objectives, and addressing both the developmental and crisis-related needs of each child.
- vii. Group counseling sessions at least twice a week. Sessions are usually informal and take place with all UAC present. The sessions give new UAC the opportunity to get acquainted with staff, other children, and the rules of the program. It is an open forum where everyone gets a chance to speak. Daily program management is discussed and decisions are made about recreational and other activities. The sessions allow staff and unaccompanied alien children to discuss whatever is on their minds and to resolve problems.
- viii. Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.
- ix. A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
- x. Whenever possible, access to religious services of the child's choice.

- xi. Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation. The staff must respect the child's privacy while reasonably preventing the unauthorized release of the unaccompanied alien child.
- xii. A reasonable right to privacy, which includes the right to wear his or her own clothes when available, retain a private space in the residential facility, group or foster home for the storage of personal belongings, talk privately on the phone and visit privately with guests, as permitted by the house rules and regulations, receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
- xiii. Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the UAC.
- xiv. Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation. (This information is included in the [Legal Resource Guide for Unaccompanied Alien Children.](#))

B. ALLEGATIONS OF ABUSE IN DHS CUSTODY

1. UAC Reported Abuse to DHS

a. Responsible Agency:

Agencies are responsible for making appropriate notification.

b. Timeframe/Deadline:

- i. DHS immediately ensures the safety and security of the alleged victim and offers adequate medical and mental health care. Within two hours of notification to ICE, the Field Office notifies the ICE Joint Intake Center (JIC) telephonically and the local ORR Field Office of the alleged sexual abuse/assault. Within 24 hours, the Field Office notifies the ICE JIC in writing via the ICE Significant Event Notification Database of the alleged sexual assault/abuse. The Field Office reports the allegation to the designated state or local services agency as necessary under applicable mandatory reporting law. Upon transfer out of ICE/ERO custody, the Field Office ensures that the receiving facility is informed of the incident and the alleged victim's potential need for medical or mental healthcare or victim services.

c. Requirements:

- i. Any employee who has information pertaining to or otherwise suspects a child is being neglected or abused/or has knowledge of the neglect/abuse will immediately notify the supervisor and communicate the following information:
 - The location of the incident.
 - Any other pertinent information about the abuse or information concerning the child that could assist in the investigation.
 - The employee will provide the name, age, sex, nationality, and A-number of the child being neglected or abused, along with any other pertinent information such as other children involved, description of injuries, and adult guardian information.
- ii. The person who directly witnesses or is advised by another that a child is being neglected or abused will call the respective State's Department of Family Protective Services' Child Abuse Hot-Line immediately but no later than one hour following the incident.
- iii. Upon receiving initial notification of child neglect/abuse, the supervisor will immediately alert the HSA and/or designee, and the Duty Program Director. The Duty Program Director will then notify ICE. Within two hours of notification to ICE, the Field Office notifies the ICE JIC telephonically and the local Office of Professional Responsibility (OPR) Field Office of the alleged abuse/assault. Within 24 hours, the Field Office notifies the ICE JIC in writing via the ICE Significant Event Notification Database of the alleged assault/abuse.

2. UAC Reported Abuse to ORR

a. Responsible Agency:

- i. ORR documents allegations of abuse that occurred while in DHS custody in Significant Incident Reports (SIRs). ORR provides notice, including the SIR itself, to DHS as directed in ORR policy. See ORR Policy Guide, section 5.8.4; MOA ORR-ICE-CBP, section IV(B)(1).
- ii. ORR documents allegations of abuse that occurred in ORR custody in SIRs. See ORR Policy Guide, section 5.8.

b. Timeframe/Deadline:

- i. Allegations of abuse in DHS custody reported while in ORR custody:
- ii. If a UAC makes an allegation of abuse, other than sexual abuse, that occurred while he or she was in the custody of DHS, care providers must report the

incident to DHS by emailing a copy of the SIR to the DHS CRCL no later than 4 hours after learning of the allegation. See ORR Policy Guide, section 5.8.4.

- iii. If a UAC makes an allegation of sexual abuse that occurred while he or she was in DHS custody, care providers must report the allegation to CRCL, CBP, and ICE no later than 4 hours after learning of the allegation by emailing a copy of the SIR. See ORR Policy Guide, section 5.8.4.
- iv. Allegations of abuse in ORR custody reported while in ORR custody:
 - 1. If a UAC makes an allegation of abuse that occurs in ORR custody, the care provider reports the incident to ORR officials no later than 4 hours after learning of the allegation. The ORR care provider reports appropriate significant incidents to CPS, the State licensing agency, and/or local law enforcement in accordance with mandatory reporting laws, State licensing requirements, Federal laws and regulations, and ORR policies and procedures. See ORR Policy Guide, section 5.8.2.
 - 2. ORR care providers must report immediately but no later than 4 hours after obtaining any of the following: knowledge, suspicion, or information regarding an alleged or confirmed incident of sexual abuse, sexual harassment, or inappropriate sexual behavior; retaliation; or staff neglect/violation of responsibilities that occurs in ORR care via the Sexual Abuse Significant Incident Report (SA/SIR). For comprehensive information for reporting CPS, the State licensing agency, and/or local law enforcement, and in some cases to the FBI and HHS/OIG refer to ORR policy. ORR Policy Guide, sections 4.10.2, 5.8.3.

c. Requirements:

- i. Allegations of abuse in DHS custody made while in ORR custody:
 - 1. SIR with allegation of abuse.
 - 2. Any allegations of abuse while in DHS custody should be reported to the Joint Intake Center (JIC). The JIC serves as the central "clearinghouse" for receiving, processing and tracking allegations of misconduct involving personnel and contractors employed by CBP and ICE.
 - 3. Allegations of abuse while in CBP custody are to be immediately reported using one of the following methods:
 - i) Call the toll-free Joint Intake Center Hotline at 1-877-2INTAKE or send a fax to (202) 344-3390;
 - ii) Send an e-mail message to Joint.Intake@dhs.gov;

- iii) Call the OIG at 1-800-323-8603;
- iv) Access the online DHS OIG Complaint/Allegation Form at <http://www.oig.dhs.gov/hotline/hotline.php>; or
- v) Write to DHS OIG:

*DHS Office of Inspector General/MAIL STOP 0305
Attn: Office of Investigations - Hotline
245 Murray Lane SW
Washington, DC 20528-0305*

- ii. Allegations of abuse in ORR custody made while in ORR custody. Follow ORR reporting policies. See ORR Policy Guide, sections 4.10.2; 5.8.1-5.8.2.

C. NOTIFICATIONS AND ACCESS

1. Notification and approved Contacts while UAC is in DHS custody

a. Responsible Agency:

- i. CBP or ICE (i.e. the apprehending agency).

b. Timeframe/Deadline:

- i. UAC are advised of their rights during case processing through the provision of Form I-770. This process involves informing the UAC that he or she may have access to a telephone to call the UAC's mother/father/any other adult relative/adult friend, with a consular or diplomatic officer from their country, and communicate with a lawyer, legal representative, or consular officer at any time prior to departure from the United States. UAC are provided a list of free and low cost legal services and informed of their right to contact an attorney. UAC will be offered a phone call upon apprehension and may also decline to make any calls.

c. Requirements:

- i. *Form I-770, Notice of Rights and Disposition for Minor*, if the UAC is younger than 14 years of age or unable to understand the notice, the form must be read and explained in a language and manner the UAC understands.
- ii. Attorney-client and consulate visits/interviews are permitted, where applicable.

2. Notification and Contact of UAC Family while UAC is in ORR custody

a. Responsible Agency:

- i. ORR is responsible for the notification and contact of a UAC's family and other stakeholders while the UAC is in HHS custody. ORR care provider Case Managers make notifications and contacts, after assessing the UAC's safety. See ORR Policy Guide, sections 2.2.1, 2.3.2.

b. Timeframe/Deadline:

- i. Within 24 hours of a UAC's admission into ORR custody the *Initial Intakes Assessment* is completed which includes questions to identify UAC family members. The care provider Case Manager will determine if it is safe for the UAC to contact family members following relevant policy and procedures. See ORR Policy Guide, section 3.2.1.
- ii. Within 5 days of a UAC's admission into ORR custody the *UAC Assessment* is administered. The *UAC Assessment* includes a section that includes family information. Any additional information later gathered in family contacts can be included on a subsequent *UAC Case Review*. See ORR Policy Guide, section 3.3.2.

c. Requirements:

- i. Identification of familial contacts is obtained in the *Initial Intakes Assessment* and/or *UAC Assessment/UAC Case Review*. See ORR Policy Guide, sections 3.2.1; 3.2.2.
- ii. ORR care providers follow internal program protocols for guaranteeing safe contacts for the UAC to communicate with family.

D. Influx Matters

1. Prioritization of Placement

a. Responsible Agency:

ORR is responsible for the placement of all UAC into HHS custody. The ORR Division of Unaccompanied Children Operations (DUCO) Intake Team is responsible for the placement processing following ORR's policies and procedures. The Intakes Team is also responsible for the prioritization of placement of UAC during an influx following ORR's policies and procedures. See ORR Policy Guide, section 1.7.

b. Timeframe/Deadline:

ORR strives, even in times of exceptional circumstances such as an influx, to provide timely placement into ORR custody. See ORR Policy Guide, section 1.7.

c. Requirements:

i. The following especially vulnerable UAC are prioritized for placement (see ORR Policy Guide, section 1.2.2):

1. UAC age 12 or under;
2. UAC with identified health concerns – or mental, physical, or developmental disabilities;
3. Pregnant or parenting UAC;
4. UAC who may require a specialized placement (UAC with delinquent activity); and
5. UAC nearing or exceeding 72 hours in DHS custody.

ii. Initial criteria for placement into an Influx Care Facility, include UAC who are (See ORR Policy Guide, section 1.7.3):

1. Be between 13-17 years of age;
2. Speak either English or Spanish;
3. Have no known behavioral or medical issues, including contagious diseases or health issues requiring immediate evaluation or medical treatment by a healthcare provider;
4. Have no known special needs (mental health or identified health concerns);
5. Deemed not a danger to self or others;
6. Have no criminal history (i.e., not charged with having committed a criminal offense);
7. Have not be involved as a perpetrator or victim of smuggling or trafficking activities;
8. Is not subject to a pending age determination;
9. Not part of a sibling group with a sibling(s) age 12 years or younger;

10. Not pregnant or parenting;
11. Medically cleared and vaccinated as required by the Influx Care Facility (for instance, if the Influx Care Facility is on a Department of Defense site):
 - Have completed the Medical Checklist for Influx Transfers
12. Able to be discharged from ORR expeditiously;
13. Not involved in an active State licensing, law enforcement, or PREA investigation;
14. Not turning 18 years old within 30 days of the transfer;
15. Not scheduled to be discharged in 3 days or less;
16. Does not have a pending Home Study; and
17. Does not have a current set docket date in immigration court or State/family court (juvenile included), or a pending adjustment of legal status, or nor an attorney of record.

2. Use of HHS Influx Care Facilities

- a. Responsible Agency:
 - i. ORR is responsible for opening and operating HHS Influx Care Facilities. ORR uses existing grantees or contractor(s) to operate facilities and provide wrap around services. See ORR Policy Guide, section 1.7.
 - ii. Other Federal Departments: Other federal departments may be land holders. HHS will enter into MOUs to obtain a licensing permit with the land holding federal department for use of the property.
- b. Timeframe/Deadline:
 - i. Time frames for use of HHS Influx Care Facilities are primarily determined by need and cost (whether referral numbers and overall capacity among ORR's network of care providers) to justify continued use of these facilities.
 - ii. If HHS has entered into MOUs with other land holding federal departments, the MOU will detail the timeframe in which HHS may operate, and will also include termination timeframes in the event HHS no longer requires use of the property.
- c. Requirements: Not applicable.

3. Services at HHS Influx Care Facilities:

a. Responsible Agency:

ORR is responsible for all services at HHS Influx Care Facilities. DHS is responsible for transportation as identified in JCO Section 1 for initial placement into Influx Care Facilities.

b. Timeframe/Deadline:

i. Admission requirement (within 4 hours) for Influx Care Facility (see ORR Policy Guide, section 1.7.4):

1. Admit the UAC to the program in the ORR database;
2. Offer the UAC a meal and/or snack;
3. Offer the UAC an opportunity to shower, provide lice treatment, and give clean clothing; and
4. Complete an inventory of the UAC's belongings and DHS paperwork.

ii. Admission requirements (within 24 hours) for Influx Care Facility (see ORR Policy Guide, section 1.7.4):

1. Provide the UAC with all documents from the Legal Resource Guide.
2. Explain to the UAC the HPC:
 - Rules and responsibilities;
 - Grievance procedures
 - Sexual abuse reporting procedures.
3. Completes the Initial Intakes Assessment in the ORR database.
4. Contacts the UAC's family (following safety protocols) to notify them of the UAC's placement and determines if the UAC has a potential sponsor who resides in the United States.
5. Informs the UAC's family about the application process for the Safe and Timely Release of an UAC to a sponsor.
6. Informs the UAC's parent/legal guardian and identified potential sponsor that the placement is temporary and that when the UAC is transferred to a final ORR placement, the parent/legal guardian and potential sponsor will be notified.

iii. Medical Services: Influx Care Facilities must complete the initial medical examination within 48 hours. See ORR Policy Guide, section 1.7.5.

c. Requirements:

i. Influx Care Facilities must follow basic standards of care including (See ORR Policy Guide, section 1.7.6):

1. Maintain facilities that are safe and sanitary;
2. Provide access to toilets, sinks, and showers;
3. Provide drinking water and food;
4. Maintain adequate temperature control and ventilation;
5. Provide adequate supervision;
6. Provide same gender supervision for any area where UAC regularly undress, including restrooms and showers;
7. Provide UAC with appropriate clothing and personal grooming items;
8. Provide UAC a reasonable access to privacy, which includes the opportunity to wear his or her own clothes, as appropriate; retain a space for storage of personal belongings; talk privately on the phone, as appropriate; visit privately with guests, as appropriate; and receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband;
9. Separate UAC who are subsequently found to have past criminal/juvenile delinquency or gang affiliation history and/or who exhibit behavior that presents a danger to themselves or to other UAC;
10. Adhere to a zero-tolerance policy towards sexual abuse and assault per ORR regulations and policy;
11. Adhere to ORR policy and procedures on significant incident and sexual abuse reporting and follow-up;
12. Allow reasonable access to legal services providers or UAC's attorneys of record that have provided proper documentation, subject to time and place restrictions;
13. Provide for either an in-person Know Your Rights presentation by a legal service provider or video Know Your Rights presentation;

14. Provide case management services for safe and timely release;
15. Follow ORR transport policies;
16. Allow access to religious services, if available;
17. Provide emergency clinical services;
18. Comply with reporting requirements as specified by ORR in consultation with HPC and Influx Care Facility providers;
19. Provide UAC an environment free from discrimination on the basis of gender, race, religion, national origin or sexual orientation; and
20. Keep UAC free from any cruel, harsh, unnecessary, demeaning or humiliating punishment.

To the extent practicable, non-State licensed HPCs and Influx Care Facilities are encouraged to provide the following services:

1. Educational services; and
2. Daily Recreational/Leisure time that includes one hour of large muscle activity and one hour of structured leisure time activities.

Conclusion

Cooperation between DHS and HHS regarding the transport, processing, placing, and care of UAC is essential. Both departments take their roles seriously and work closely with interagency and foreign counterparts on a daily basis to ensure the humane treatment of UAC while simultaneously enforcing the laws Congress has passed.

The JCO provides field guidance and standardization of interagency policies, procedures, and guidelines related to the processing of UAC encountered by DHS, whose care will be transferred to HHS, after being placed in removal proceedings pursuant to section 240 of the INA. The process for returning UACs to a contiguous country (i.e., Canada or Mexico) through withdrawal of an application for admission will be in accordance with the TVPRA.

This document does not take the place of agency policy regarding the processing of UAC nor is it a substitute for legislative action, where required; rather it is an interagency agreement to standardize agency operational relations. The JCO will prove helpful in many situations, but it is not intended to be all-inclusive or to provide comprehensive guidance for every situation. If field staff members have a question that is not addressed here, they shall elevate the issue through their respective chain of command.

The JCO will be made available to all applicable staff within each department, as appropriate. Updates, amendments, and expansions will occur as needed with agreement from both departments. Suggestions for changes and additions are to be referred to each department's respective chain of command for consideration; however, all additions or alterations must be submitted to and approved by headquarters-level policy and counsel offices.

Nothing in this document shall be construed to impair or otherwise affect the authority granted by law to an executive department or agency and to the extent this JCO contradicts any existing statute or regulation, the conflict should be resolved in favor of the statute or regulation. This document is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.