

KIND BLUEPRINT 2024

Practical Solutions that Protect Unaccompanied Children Seeking Safety

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ON THE COVER

Immigrant children await transport from the U.S.-Mexico border on December 7, 2023. Photo by John Moore/Getty Images

Executive Summary

Kids in Need of Defense's (KIND) Blueprint comprehensively examines issues and policies affecting unaccompanied children and recommends practical administrative actions that the U.S. government can take to improve child protection and well-being while also contributing to safe, orderly, and humane migration processes and government efficiency. Uplifting the protection of unaccompanied children as a collective priority and necessity for children, communities, and sound government operations, the Blueprint articulates a promising and actionable vision.

Protecting Unaccompanied Children in the United States

- **The U.S. government should ensure legal representation for unaccompanied children in immigration proceedings.** Many children do not have an attorney to assist them in understanding complex legal processes and immigration laws. This gap compromises the fairness of immigration proceedings, risks the return of children to harm, exacerbates children's vulnerability to human trafficking and exploitation, and contributes to government inefficiencies. The Office of Refugee Resettlement (ORR) should request and dedicate significant funds from the Unaccompanied Children Program to support legal services for the greatest number of unaccompanied children possible, and partner with nonprofits and the private sector on nationwide initiatives to expand legal representation.
- **The U.S. government should ensure appropriate reception, screening, and care of unaccompanied children consistent with federal anti-trafficking law and related legal protections and standards.** These efforts should leverage the expertise of professionals with child welfare expertise, including through the hiring and deployment of licensed child welfare professionals at southern border sectors by the Department of Homeland Security (DHS). The government must ensure that unaccompanied children are never subject to expedited removal, turnbacks, or border closure policies, in violation of U.S. and international law, and should consider the impact of any border policies on family unity and access to protection.
- **ORR should fully implement the Unaccompanied Children Program Foundational Rule and uphold all required standards to protect children's well-being and support the government's preparedness amid increases in child migration globally.** The federal government should counter any congressional efforts to repeal or defund implementation of the rule, which was promulgated to implement the longstanding *Flores* Settlement Agreement and to set forth child welfare best practices touching on nearly every aspect of a child's time in care and their safe reunification with family. Such efforts could undermine children's protection from trafficking and other harm and result in prolonged detention of children. ORR should continue to support placement of children in licensed, small-scale or family-based placements. It is also imperative that ORR maintain its independence from the law enforcement functions of other federal departments and agencies to best effectuate its child welfare mission.
- **ORR should ensure robust oversight and monitoring of ORR-funded programs and facilities, including enhanced monitoring of programs in states where state licensing is not available.** ORR should publish for consideration proposed regulations related to federal licensing of ORR facilities and support implementation of the new Unaccompanied Child Office of the Ombuds, as provided for by the Foundational Rule. The federal government should ensure appropriate access and authority for the Ombuds to enable proactive investigations and issue additional rulemaking to ensure the most robust monitoring and complaint mechanisms possible.
- **The federal government should expand government-wide efforts to combat child labor trafficking and exploitation.** ORR should provide information to children and sponsors about child labor laws, rights, and ways to report violations. The Department of Labor (DOL) should actively enforce compliance by employers and request increased funding from Congress for these efforts while supporting congressional action to increase civil monetary fines for violations. Efforts by the Department of Education to improve unaccompanied children's access to education can further promote safe and healthy integration into communities and reduce children's vulnerability to exploitation and other harms.
- **The Executive Office for Immigration Review (EOIR) should fully implement specialized children's dockets to improve the fairness and efficiency of immigration proceedings.** Reforms that leverage child-appropriate practices and adjudication can help ensure full and fair consideration of children's cases while reducing delays and driving efficiencies in proceedings. EOIR should engage with local and regional pro bono committees to maximize opportunities for qualified attorneys to be present at court to share legal information, assistance, and referrals.

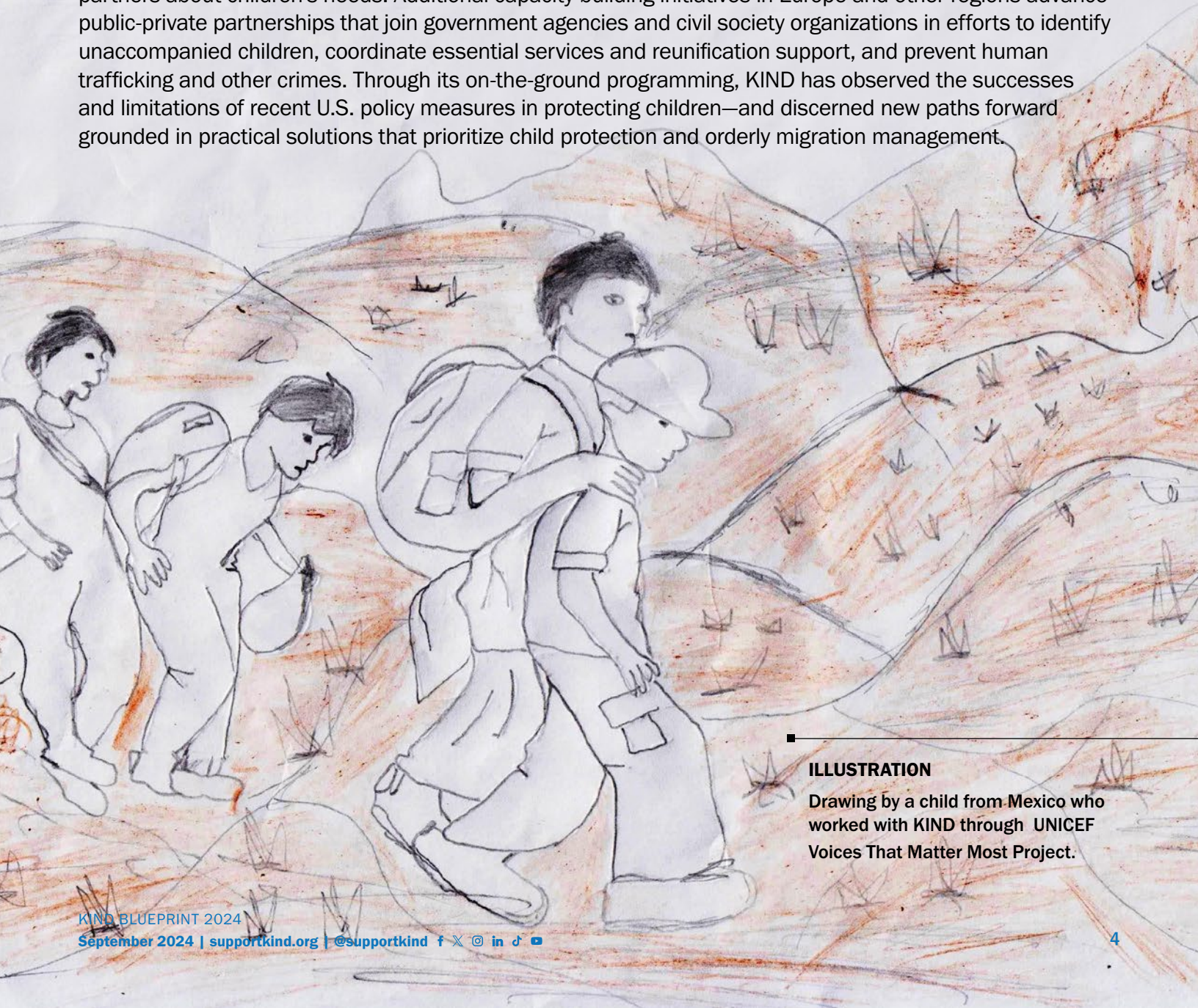
- **DHS should continue to defer filing of a child's Notice to Appear until the child has time to reunify with a sponsor.** Federal agencies should ensure timely and consistent adjudication of children's petitions for Special Immigrant Juvenile Status (SIJS), asylum, and employment authorization.
- **ORR should offer enhanced post-release services to all unaccompanied children to protect their well-being, reduce vulnerability to human trafficking and exploitation, and support children in becoming engaged members of their communities.** In addition to other assistance including psychosocial services, family reunification support, and access to health care, access to education remains critical for children's integration. The Department of Education's Office for Civil Rights should request adequate funding to enforce laws pertaining to the right to a free public education regardless of immigration status, and the federal government should reject any efforts to curtail children's access to K-12 education. U.S. Citizenship and Immigration Services should expand targeted outreach to provide unaccompanied children with information about the naturalization process and help them overcome barriers to applying.
- **The federal government should ensure the well-being of children who are ordered removed or who choose to voluntarily depart the country through the coordination of predeparture planning and return and reintegration services.** Such programming not only helps ensure children's safety and stability in their countries of origin but also reduces the likelihood that children will be compelled to re-migrate to find protection. Return and reintegration efforts should be led by professionals with expertise in child welfare and migration.
- **The federal government should uphold family unity and take steps to prevent unnecessary separations of children from parents and other family caregivers when making and implementing border and immigration policies.** The federal government must ensure full compliance with the *Ms. L* settlement, including provisions related to future separations and streamlined processes by which eligible families can apply for humanitarian protection. DHS should implement robust policies to ensure consideration and prioritization of children's best interests in any separation decisions; ensure regular training; and provide for a rigorous review process. As part of those policies, prior to any separation by Customs and Border Protection of a child from a parent or legal guardian due in whole or part to child safety concerns, a DHS Office of Health Security-hired child welfare professional should assess relevant child welfare considerations.

Protecting Children Beyond U.S. Borders

- **The federal government should deepen its leadership in addressing root causes of child migration to help children find protection closer to home and reduce the need to undertake dangerous journeys to find safety.** The U.S. government should dedicate significant foreign assistance to address drivers of migration and direct efforts toward communities and regions experiencing high levels of forced migration and displacement, prioritizing community-based violence prevention and response, especially as it affects children, youth, and women; programming to support access to education and other opportunities; and capacity building for child welfare and child protection systems. These efforts should address not only children fleeing Central America but also those forced to migrate through the Darien Gap and the region in search of protection from harm in countries such as Haiti and Venezuela.
- **The U.S. government should expand existing refugee processing and resettlement mechanisms to provide safe, legal alternatives for those in need of international protection.** Such measures should include improvements to in-country refugee processing initiatives such as the Central American Minors Program to help vulnerable children access protection mechanisms without dangerous journeys, thereby relieving pressure at the U.S.-Mexico border. Additional efforts should create opportunities for unaccompanied children to access regional refugee processing centers, such as Safe Mobility Offices.
- **Mexico and the United States should partner in the creation and implementation of robust protections for children on the move.** Such collaboration can not only safeguard vulnerable populations from trafficking and other harm but also advance U.S. interests by promoting regional stability, reducing irregular migration, and enhancing bilateral cooperation. U.S. agencies should focus diplomacy and foreign assistance on strengthening the capacity of Mexico's asylum agency, child protection system, and national child welfare agency, and ensure children's access to protection as provided for under Mexican, U.S., and international law. The United States and Mexico should formalize and expand binational coordination mechanisms that ensure the safe transfer of unaccompanied children to the United States when it is in the child's best interests.

About KIND

KIND's direct engagement with unaccompanied children throughout the United States, in the region, and beyond, has brought into clear relief the urgency of the Blueprint's recommendations in the current moment. As the leading organization in the United States dedicated to ensuring that no child faces immigration court without an attorney, KIND has provided legal representation to more than 16,000 children in U.S. immigration proceedings and has provided legal rights education to more than 75,000 children in the United States. With growing displacement of children reaching many regions of the world, KIND's clients come from an increasingly diverse range of countries and backgrounds, including children who have fled persecution and violence in Mexico and Central America, the war in Ukraine, the rise of the Taliban in Afghanistan, and political unrest and insecurity in Haiti, among others. Through the coordination of holistic psychosocial services, KIND supports children's individualized needs and builds upon children's strengths to enhance well-being and safety, including through trauma-informed counseling, educational support, access to medical care, and other services. The organization recently launched a program dedicated to safeguarding clients from labor abuses. KIND's programming in Central America addresses the root causes of child migration, coordinates reintegration support for returning children, and helps to educate government actors and partners about children's needs. Additional capacity building initiatives in Europe and other regions advance public-private partnerships that join government agencies and civil society organizations in efforts to identify unaccompanied children, coordinate essential services and reunification support, and prevent human trafficking and other crimes. Through its on-the-ground programming, KIND has observed the successes and limitations of recent U.S. policy measures in protecting children—and discerned new paths forward grounded in practical solutions that prioritize child protection and orderly migration management.



ILLUSTRATION

Drawing by a child from Mexico who worked with KIND through UNICEF Voices That Matter Most Project.

Introduction

Across borders and continents, people worldwide share in a commitment to ensuring that children can grow in safe, loving homes. In recent decades, however, war, violence, abuse, and other harms have created unprecedented risks in many parts of the world and necessitated that millions of children seek protection beyond their communities and countries. As of the close of 2023, more than 117 million people were forcibly displaced worldwide, nearly 40 percent of them children.¹ Children seeking safety may travel alone or become separated from parents and other loved ones as they undertake dangerous journeys to find protection and reunite with caregivers. In addition to threats of human trafficking and exploitation, children often must navigate complex and unfamiliar immigration proceedings to secure protection. Many children are not provided an attorney to assist them with their legal cases, notwithstanding their young age, limited knowledge of the law, and the serious implications for their safety. If unable to meaningfully articulate their protection needs, unaccompanied children could face deportation to the very harms they fled.

Concerted moral and global leadership is urgently needed to protect unaccompanied children seeking safety in the United States and internationally—and to do so in an orderly and efficient manner. To date, the U.S. government has made significant strides toward creating a framework of protections that provide for unaccompanied children's safe and humane treatment and that help them fairly access legal relief. These safeguards include the *Flores* Settlement Agreement and related regulations, which establish national minimum standards for children's care by federal authorities; the bipartisan Trafficking Victims Protection Reauthorization Act of 2008, which was passed unanimously to create procedural protections to prevent children's return to human trafficking or other harm; and policies such as the Central American Minors (CAM) Program that facilitate safe and orderly processing by expanding in-country processing of applications for U.S. refugee status or related protection. As increasing numbers of children confront displacement worldwide, these measures—and additional efforts that build upon them—only grow in importance.

This Blueprint is grounded in Kids in Need of Defense's (KIND) work with thousands of unaccompanied children for more than 15 years and provides an administrative roadmap for upholding and advancing protections for unaccompanied children at all points of their journey toward safety. It leverages experience and best practices from the child welfare, immigration, and international sectors to recommend practical measures that can improve child well-being while also contributing to safe, orderly, and humane migration processes and government efficiency. The Blueprint is both reflective and proactive—evaluating the effectiveness of current policies in protecting children and proposing tailored, pragmatic measures the executive branch can implement to prepare to meet children's needs today and in the future. While focusing on opportunities available through administrative powers and actions, the Blueprint highlights the critical necessity of legislative action and fiscal commitments by Congress to usher holistic and permanent change.

If implemented, the vision articulated in this roadmap would realize profound and overdue reforms that improve child protection, restore U.S. leadership globally, responsibly steward government resources, and reduce processing backlogs. Pursuant to this vision, strategic partnerships and development assistance would enhance safety and opportunity in children's countries of origin and reduce the likelihood that they will be forced to seek protection elsewhere. Children at risk would be able to apply for U.S. refugee protection and other humanitarian relief while still in their countries of origin, and children seeking asylum in the United States would be received, screened, and cared for by licensed child welfare professionals who would enable border agents and officers to focus instead on vital law enforcement functions. Full legal representation would be provided to help children navigate pursuit of any permanent legal protections for which they are eligible or to voluntarily depart to their country of origin. Specialized children's dockets, staffed by trained adjudicators, would improve the integrity and efficiency of proceedings. Children returning to their country of origin would receive services to help safely reintegrate into their communities and to build connections and stability that can prevent the need for re-migration. Children seeking or granted legal protection in the United States would be offered psychosocial services that support their healing, well-being, integration, and contributions to their communities and help reduce their vulnerability to human trafficking and exploitation.

Grounded in children’s experiences and lessons learned from prior policies, the Blueprint’s recommendations offer an outline for amplifying measures that work and for revisiting approaches that undermine child protection and safe and orderly migration. By acknowledging the protection of children as an imperative for the well-being of unaccompanied children and the United States, the Blueprint moves away from solutions that rest on an either-or approach. Practical measures that uplift our nation’s shared values and prosperity—that benefit all Americans—are in view. The work to make them a reality must start now.

Ensuring Legal Representation of Unaccompanied Children

Background

KIND was founded on the principle that no unaccompanied child should face immigration court alone. As our work has expanded across the United States and throughout the region and world, we have observed that, at every stage of a child’s migration journey, legal counsel is essential to ensuring due process and government efficiency as well to preventing and mitigating child labor exploitation and trafficking.

Legal counsel helps uphold due process for unaccompanied children in their U.S. immigration proceedings regardless of adjudicative outcome. Indeed, it is virtually impossible for children to navigate the U.S. immigration system without lawyers to assess their eligibility for humanitarian relief, help prepare their cases, and advocate for them during adversarial hearings. The Executive Office for Immigration Review (EOIR)’s most recent available data, covering completed immigration court cases from FY 2018 through the first half of FY 2021, bears this out, revealing that immigration judges were almost 100 times less likely to grant relief to unaccompanied children without counsel than unaccompanied children with counsel.ⁱⁱ Where children are not eligible for humanitarian protection in the United States or wish to return to their country of origin, attorneys can help ensure those children’s timely and safe repatriation.

Legal representation of children also prevents waste of judicial and other government resources. Attorneys help screen out inapplicable forms of protection, minimize unneeded court time, and avert hearing postponements that would otherwise be necessary to afford children an opportunity to obtain counsel. Further, attorneys promote orderly court operations by helping ensure children’s appearances at proceedings. From Fiscal Year 2005 through June of Fiscal Year 2019, 98 percent of children with lawyers appeared for court.ⁱⁱⁱ With the immigration court backlog exceeding 3.6 million cases, the enhanced efficiency achieved by legal representation is needed more than ever.^{iv}

As press accounts have brought into relief widespread labor exploitation of unaccompanied children by U.S. employers, it is important to emphasize that attorneys often function as these children’s most trusted advocates in situations of exploitation. By law, the attorney-client relationship is a confidential one. That confidentiality, coupled with the unique rapport built over months or years of representation, can mean that a lawyer is the sole authority figure to whom children feel safe disclosing information about labor abuses and other mistreatment. Attorneys can report these incidents as appropriate; facilitate access to support services; and assist children in obtaining lawful immigration status, when eligible, to bring children the stability needed to pursue long-term security and integrate into and contribute to their communities.

As a matter of fairness, efficiency, and fundamental child safety, the U.S. government should ensure that all unaccompanied children have attorneys. Laudably, the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS) has set a goal of achieving precisely this aim by Fiscal Year 2027.^v Much work remains at present to realize this objective, as many if not most unaccompanied children throughout the nation continue to lack lawyers. To remedy this, the executive branch must work with Congress to increase the provision of legal services to unaccompanied children, including by requesting sufficient funding to support such services for all unaccompanied children and by urging the passage and enactment of legislation mandating the provision of counsel for every unaccompanied child.

Recommendations

- ORR should allocate funding received through ORR’s Unaccompanied Child Program to support legal services for the greatest possible number of unaccompanied children with the goal of closing the representation gap for children.
- In partnership with the nonprofit community and the private sector, ORR should pursue nationwide initiatives focused specifically on expanding legal representation of children who have been released from ORR custody and placed with sponsors in U.S. communities.
- ORR should request, and Congress should appropriate, an increase over Fiscal Year 2024 funding levels to support the expansion of legal services for released and detained unaccompanied children.
- ORR should advance ongoing efforts to ensure that its legal services programming optimally informs unaccompanied children and sponsors of relevant rights under child labor laws and of mechanisms for reporting child labor violations, including by incorporating best practices from KIND’s Labor Exploitation Prevention Programs.^{vi}
- HHS should publish on a publicly available website statistics regarding the number and percentage of unaccompanied children to whom ORR provides legal services, including the number and percentage of children released from ORR custody to whom ORR has provided full legal representation.
- The Administration should support passage and funding of the Fair Day in Court for Kids Act,^{vii} which would guarantee counsel to all unaccompanied children in immigration proceedings.
- EOIR should utilize local and regional pro bono committees to coordinate with qualified providers of legal services for unaccompanied children to maximize opportunities for attorneys to be present at court during juvenile dockets to provide legal information, assistance, and/or referrals. EOIR should continue to coordinate with ORR to maximize funding of legal services and to meet the needs of courts as they implement specialized children’s dockets.
- The Department of Justice (DOJ) should support congressional appropriations for the Legal Orientation Program for Custodians (LOPC) to ensure the provision of information about rights and responsibilities for unaccompanied children’s sponsors. This program is crucial to ensure sponsors understand how best to support the child through their immigration court case after release from federal custody and to ensure sponsors and children alike meet their legal obligations, thereby promoting orderly and efficient court operations. ORR should continue to request robust appropriations from Congress to provide independent child advocates when appropriate.
- U.S. Citizenship and Immigration Services (USCIS) should adopt a policy change enabling children who are applying for refugee status under the Central American Minors Program to be accompanied by attorneys during their refugee interviews.

Addressing the Root Causes of Child Migration through U.S. Foreign Policy

Background

Each year, thousands of unaccompanied children seek safety in the United States from threats to their lives and well-being. By more robustly addressing the root causes of child migration, the U.S. government can help to foster conditions in which children can more readily access stability and safety in their countries of origin and fewer children will be compelled to flee in search of protection. Such outcomes can improve child welfare, reduce arrivals at the U.S.-Mexico border, and diminish strain on U.S. border operations. Ultimately, no child should have to abandon their home to find safety.

In 2021, the U.S. government issued an executive order outlining a comprehensive approach to addressing the root causes of irregular migration and laying the groundwork for collaborative approaches with countries in North and

Central America to enhance humanitarian support, regional protections, and migration management.^{viii} Following the executive order, the United States implemented the Collaborative Migration Management Strategy (CMMS), which promotes safe, orderly, and humane migration in North and Central America.^{ix} The United States also became a member state of the Los Angeles Declaration on Migration and Protection—an agreement signed by countries across the Americas in 2022 pledging to promote and respect the rights of migrants and committing to strengthened protection systems.^x Through the CMMS, the U.S. government has dedicated funding to address root causes of migration, including \$310 million to address acute factors contributing to migration in El Salvador, Guatemala, and Honduras, and \$169 million for humanitarian assistance plans in Central America.^{xi} Despite these strides, it remains important for future administrations to take more concrete steps to address migration in a way that considers the unique needs and vulnerabilities of children on the move.

At present, global displacement of children has reached record highs, and children and families who seek protection in the United States come from an increasingly diverse range of countries. It has therefore never been more critical for the U.S. government to adopt a revitalized strategy toward tackling the root causes of child migration. This updated strategy should prioritize targeted foreign assistance and substantial investments in programs addressing migration’s fundamental drivers. While the U.S. government must couple this root causes strategy with robust domestic safeguards ensuring unaccompanied children’s full and fair opportunity to seek legal protection within the United States, an ultimate goal is to prevent the need for children to flee in the first place.

Moving forward, U.S. foreign assistance to the region must focus on meaningfully addressing drivers of child migration such as endemic community violence and insecurity, interpersonal and gender-based violence, extreme poverty, lack of educational and economic opportunities, systemic inequality, discrimination, and the severe impacts of climate change. Gender-based violence, particularly when related to crimes such as child abuse, intimate partner violence, gang-related sexual violence, human trafficking, and sexual exploitation, continues to be a significant driver of child migration and demands urgent attention and resources.^{xii} Reflecting this relationship, in 2021, the Central American Women and Children Protection Act was introduced in Congress in a bipartisan effort to protect women and children in northern Central America from domestic violence, sexual assault, child abuse, and neglect while also holding perpetrators of these acts accountable.^{xiii} In line with the actionable steps laid out by the legislation, in 2024, the U.S. Department of State (DOS) announced the first compact signed between the United States and Honduras to address gender-based violence.^{xiv} While this measure indicates meaningful progress toward providing protection to vulnerable women and children in Central America, continued support is needed to establish and maintain safe communities.

Many of these drivers have only worsened in recent years, making it all the more imperative for the United States to reconsider its approach to foreign policy and focus on humanitarian solutions and sustainable development to help keep children safe in their communities and homes. It is critical that the United States continue and deepen its leadership in addressing root causes of child migration and work closely with countries in the region to ensure that protection of children is centered in all migration policies—especially root causes strategy.

Recommendations

- The White House should lead an inclusive process to develop a new interagency strategy for Central America that addresses the root causes of child migration and prioritizes assistance for children, women, families, and other vulnerable populations. These efforts should address not only children fleeing Central America but also those forced to migrate through the Darien Gap and the region in search of protection from persecution and other harm in countries such as Haiti and Venezuela.
- The U.S. government should continue actively engaging with governments that signed onto the Los Angeles Declaration on Migration and Protection to coordinate efforts of member states, donors, and international organizations working to address root causes. The U.S. government should promote civil society inclusion during the implementation of the Los Angeles Declaration. Inclusion of civil society will ensure that the needs of people on the move and host communities are met and that migration management efforts are responsive to on-the-ground needs.

- The United States and countries in the region should enhance child protection within coordinated migration management strategies grounded in orderly processing. Rather than emphasizing enforcement or interdiction measures that could deepen instability and insecurity for children and families and potentially lead to increased remigration of returned people, the United States should prioritize humanitarian protection as well as bilateral and multilateral facilitation of family reunification.
- U.S. foreign assistance should prioritize investments in people, communities, and local civil society organizations. Additionally, the United States should support assistance that helps restore the rule of law and addresses corruption and impunity. DOS, the U.S. Agency for International Development (USAID), and other entities should increase efforts to ensure development programs are planned and implemented with the input and oversight of the people and communities receiving aid. U.S. foreign assistance to Central America should be administered in a way that builds local capacity, commits to long-term investments, and allows for responsible planning, monitoring, and evaluation of programs.
- The President’s budget requests should include a substantial increase in foreign aid for northern Central American countries that is long-term and focused on development assistance. Development assistance should be specifically targeted to address drivers of migration and communities and regions experiencing high levels of forced migration and displacement, and prioritize:
 - Community-based violence prevention and response, especially as it affects women, children, and youth. Programming should scale up effective projects that address youth violence prevention and assist youth who are victims of violence.
 - Programs that support health, mental health, protection and safety, education, employment opportunities, and empowerment for children and youth in the region to ensure that they have the opportunity to thrive in their home countries.
 - Capacity building for the country’s child welfare and child protection systems that provide essential services to vulnerable children and their families. Programs should support specialized training for child protection system personnel to work with child survivors of violence, as well as an increase in family-based shelter options for children in need of protection.
 - Efforts to address and respond to gender-based violence. Among other measures:
 - The Administration should ensure robust implementation of the bilateral compacts envisioned in the bipartisan Central American Women and Children Protection Act, which would create a partnership between the United States and partner countries to combat gender-based violence and insecurity that are drivers of migration. Similar to the compact signed between the United States and Honduras in 2024, future compacts in El Salvador and Guatemala should implement initiatives for prevention, protection, and response to gender-based violence while also setting up support systems for survivors of violence and strengthen judicial and institutional capacity to hold perpetrators accountable.
 - Such efforts should include a substantial increase in funding for programs that promote gender equality, including programs with a primary purpose of preventing and responding to gender-based violence, such as intimate-partner violence and child abuse. Programs should serve survivors of sexual violence with a trauma-informed response and engage men and boys in violence prevention. Programs must also build the capacity of local judicial systems to respond to crimes related to gender-based violence, including crimes against children, and to protect survivors. Prevention of and response to gender-based violence should be integrated within all programs to ensure that projects in each sector are proactively addressing relevant risks and not unintentionally contributing to increases in violence against women, children, or other vulnerable populations.

- The U.S. government must further strengthen its leadership position in promoting gender equality and prioritize gender-based violence prevention and response in its diplomacy, external partnerships, and stakeholder relationships. DOS and USAID should support women’s rights and the rights of gender and sexual minorities through continued visible, proactive diplomacy and strategic aid programs.
- The U.S. government should establish a tailored program to ensure safe return and robust reintegration services for unaccompanied children returning to Central America so those children will not be forced by conditions to migrate again in search of protection.
- U.S. assistance should include climate resilience and adaptation strategies to help communities withstand and recover from the impacts of climate change, such as increased natural disasters and resource scarcity, which have become more pronounced and contribute to migration.

Strengthening Regional Protections for Children Fleeing Danger

Background

Expanded and strengthened refugee processing and resettlement mechanisms are needed to provide safe, legal alternatives for those in need of international protection—and in particular for children in Central America. In-country refugee processing of vulnerable children plays an important role in facilitating orderly, regular migration to the United States and relieving pressure at the U.S.-Mexico border by eliminating the need for children to make dangerous journeys in search of protection.

The implementation of Safe Mobility Offices (SMOs) has created regional processing sites in the Western Hemisphere enabling certain individuals to be processed rapidly to host countries, including the United States, Canada, and Spain. This initiative has led to the “largest expansion in decades of lawful pathways to the United States to help refugees, vulnerable migrants, and other forcibly displaced persons in the Western Hemisphere.”^{xv} While the SMOs show great promise, they currently are limited to adults or families—leaving children migrating alone unable to access them.

Parallel to the SMOs, the CAM program facilitates in-country processing by allowing a parent or legal guardian who is lawfully present in the United States to request a refugee interview for their child in El Salvador, Guatemala, or Honduras—drastically reducing the chance that the child will be compelled to make a hazardous trek to the U.S.-Mexico border in pursuit of safety. In addition to reinstating CAM, the U.S. government expanded program eligibility criteria in 2021 to allow parents in the United States with pending asylum and U and T nonimmigrant status applications (also commonly known as “U and T visas”) to file petitions for their children—making the program more accessible to families in need. Through CAM, several thousand children have been admitted as refugees or paroled into the United States in recognition of the risks they face in their home countries. While CAM has been a proven tool for orderly migration management for certain children at risk in Central America, steps must be taken to further enhance the program so it can reach its full potential of serving vulnerable children and reducing strain on U.S. border operations.

Expanding upon existing refugee processing and other lawful pathways and creating new such mechanisms will help provide protection to eligible children and promote more orderly, efficient migration management. Importantly, these programs should not be seen in any way as replacing or restricting access to protection for those who request protection at U.S. borders or arrive in the United States.

Recommendations

The United States, in collaboration with regional and international partners, must prioritize the development and enhancement of existing refugee processing and resettlement programs.

- **Central American Minors Program:** The U.S. government must prioritize enhancements to the CAM program that better serve children seeking protection through this pathway, strengthen program efficiency, and help activate CAM's full potential to prevent the need for children to flee to the U.S.-Mexico border, including:
 - Fully implementing a policy directive allowing children to be accompanied by attorneys during USCIS refugee interviews, which will improve the fairness and efficiency of CAM adjudications.
 - Expeditious processing of claims so that qualifying children can gain safety as quickly as possible. Efficiencies highlighted by the Safe Mobility Offices, which process cases on an average timeline of 75 days, should be used as an example. Efforts should be made to ensure that security checks remain robust and effective without creating unwarranted delays
 - Expansion of CAM eligibility criteria, including children's countries of nationality, and locations of USCIS circuit rides to provide currently unreached populations of at-risk children a lawful, safe alternative to dangerous journeys to the U.S.-Mexico border.
 - Robust mechanisms through which child welfare experts can conduct best interests determinations (BID) for children as appropriate consistent with child welfare principles.
 - Development by DOS of clear country-specific guidance for CAM families on the requirements and process for obtaining travel clearance. As appropriate, IOM should also designate staff to support families navigating legal requirements for international travel as they prepare families for travel. When needed, families should be provided with information and resources on how to access legal support for family courts in children's countries of origin if custody challenges come up during the application process.
 - Improved accessibility for particularly vulnerable children and those in rural and remote areas. Interviews and services should be adapted for children, gender-sensitive, and available outside of urban centers to reach more children and minimize vulnerable children's need to travel.
 - Accommodations for children in need of immediate protection through evacuation and temporary internal relocation, emergency transit centers in each country, or quickly processed humanitarian parole. Funding should be made available to civil society organizations throughout the region to provide safe shelter to children in need of internal relocation.
 - Promotion of program transparency through regular DOS and USCIS publication of unclassified reports on CAM on publicly available websites. With safeguards to prevent the release of personally identifiable information, reports could include data on application numbers, broken down by country of origin and number of individuals; approval numbers, broken down by refugee and parole status and country of origin; number of individuals who have arrived in the United States, broken down by refugee and parole status and country of origin; states of arrival for CAM individuals who have traveled to the United States; and immigration status of the sponsors.
 - Support of legal representation for children receiving parole through CAM to help ensure their long-term safety and stability through screening and assistance in applying for asylum or other forms of humanitarian protection for which they may be eligible.

- **Safe Mobility Offices:** The United States should support efforts to create opportunities for children migrating alone to access regional refugee processing centers like the SMOs. Successful expansion of these programs requires:
 - Establishment of secure and effective avenues through which SMOs serve children migrating alone.

- Sustained, multi-year funding commitments by DOS’s Bureau of Population, Refugees, and Migration to implementing partners such as UNHCR and the International Organization for Migration. DOS should continue to request any necessary funding from Congress as needed to sustain and scale up the capacity of the SMOs.
- Flexibility to ensure that individuals can apply and be processed for refugee resettlement to the United States from expanded locations in the region to ensure that those who have been forcibly displaced are not excluded from consideration.
- U.S. assistance should be directed to building the capacity of local systems to protect children so they can remain safely in their home countries and have meaningful alternatives to migration. Child welfare and child protection agencies should provide essential services to vulnerable children and their families so children in danger will not be forced to migrate to secure protection. However, these agencies currently lack sufficient authority, funding, and infrastructure to reach and provide basic protection to children in need—especially for children living outside of major cities. Programs should support specialized training for child protection system personnel to work with child survivors of violence, as well as increase family-based shelter options for children in need of protection. National child protection agencies should also be strengthened.
- Returned and unaccompanied children in the care of national child welfare agencies should be screened for eligibility for different refugee and parole programs as appropriate. Returned children should also be provided with reintegration support. Reintegration programs that provide comprehensive support services are essential for ensuring returned children feel safe and secure in their home country and have the opportunity to thrive—drastically reducing the need to re-migrate in the future.
- The Administration should urge Congress to provide increased support to UNHCR and countries in the region to expand the capacity of third-country protection programs and other transfer mechanisms for refugees. These efforts should draw from best practices employed at UN-administered Blue Dot hubs created in Europe—support centers that provide information, assistance, and service referrals to children and adults fleeing danger—or directly establish Blue Dots in Central America as appropriate and seek associated congressional funding.
- The United States should seek frequent and regular input from local civil society organizations supporting impacted populations to ensure that assistance and services at regional processing centers are responsive, effective, and sustainable.

Improving Protections for Migrant Children in Mexico

Background

Mexico and the United States must be partners in developing a robust system of migration management and protections for children on the move. Strengthened protections for children in Mexico, an efficient Mexican asylum system, and active engagement from civil society not only safeguard vulnerable populations but also advance U.S. interests by promoting regional stability, reducing irregular migration, and enhancing bilateral cooperation.

Mexico has a robust legal protection system for children’s rights and migrant’s rights. Mexico’s 2011 Law on Migration (*Ley de Migración*) establishes rights of migrants to access education, health care, and legal support while within the country.^{xvi} The General Law on the Rights of Children and Adolescents (*Ley General de los Derechos de Niñas, Niños, y Adolescentes*), enacted in 2014, establishes a framework for the promotion and protection of children’s rights in Mexico.^{xvii} In 2021, Mexico passed reforms that prohibit the detention of migrant children, and require best interests determinations in all cases.^{xviii} Together, these laws create a solid framework for children’s protection.

Progress has been made towards strengthening Mexico’s care and protection of migrant children seeking protection and ability to reunite with family in the United States. Since prohibiting the detention of migrant children, the Mexican government has invested in 77 shelters for children and families around the country.^{xix} Mexico and the United States

have also established an international transfer mechanism through which children in the custody of Mexico's national child welfare agency (DIF, *Sistema Nacional para el Desarrollo Integral de la Familia*), which is responsible for the care of migrant children, can be transferred to the United States to reunite with a family member, if such a transfer is determined to be in the child's best interest by Mexican child protection authorities. This binational agreement promotes efficient and orderly migration by ensuring children are not forced to cross the border alone and by assisting U.S. border authorities in preparing to safely receive children with particular needs.

Despite this strong legal foundation and progress over the last several years, unaccompanied children in and traveling through Mexico still are subject to inadequate access to services and unsafe living conditions. Mexico has increased immigration enforcement, detention, and deportations, including the swift and systematic deportation of children without best interests determinations, in violation of Mexican law. Many children, Mexican or foreign nationals, experience significant risks during their search for protection, including potential extortion by officials or criminal actors, and are unaware of their rights while transiting the country or of their right to seek protection in Mexico. For example, under the Ley de Migración, all migrant children and their adult family members entering Mexico should be issued a humanitarian visitor card (TVRH or *Tarjeta de Visitante por Razones Humanitarias*) and national ID number (CURP or *Clave Única de Registro de Población*), but many do not receive them or know to request them. Without them, children are subject to immigration detention and family separation and are constrained in their ability to access health care, education, employment, and other benefits for which they are eligible.

When children do exercise their right to seek protection in Mexico, they often must do so without assistance from civil society organizations or adequate legal representation. Moreover, the Mexican government has not had the capacity to adjudicate the increasing number of protection claims being made. Children seeking protection in the United States are often subject to discrimination, violence, and threats as they wait at the U.S.-Mexico border.

Addressing these challenges and ensuring that Mexico promotes and protects the rights of children on the move consistent with the vision of child protection set forth in its laws will require collaboration between Mexico, the United States, and Mexican civil society.

Recommendations

- The United States and Mexico must continue bilateral coordination to ensure the safe transfer of unaccompanied children to the United States when it is in their best interests. U.S. and Mexican government officials should expand formal mechanisms to assist migrant children looking to reunite with family members in the United States in cases when it is in the best interests of the child to do so. Such procedures have been implemented on a very limited basis in recent years and have proven successful in efficiently processing at-risk children in an orderly manner.
- USAID and other U.S. agencies should focus diplomacy and foreign assistance on strengthening the operations of Mexico's migrant and child protection institutions directly, including through direct support of Mexico's asylum agency (COMAR, *Comisión Mexicana de Ayuda a Refugiados*), child protection system (SIPINNA, *Sistema Nacional de Protección de Niñas, Niños, y Adolescentes*), national child welfare agency (DIF, *Sistema Nacional para el Desarrollo Integral de la Familia*), and privately run social assistance centers. Efforts should focus on:
 - Supporting SIPINNA in implementing the *Ruta de Protección Integral de Derechos de Niñas, Niños y Adolescentes Migrantes*;
 - Supporting Mexico's capacity to fully comply with existing Mexican laws requiring that migrant children be placed in the care of DIF or in alternative family- and community-based care;
 - Encouraging the Mexican government to ensure civil society access to municipal, state, and federal DIF facilities and increase transparency and oversight in such facilities; and
 - Building the capacity of the local child protection authorities to carry out best interests determinations for all migrant children, and oversee the implementation of appropriate protection measures based on those determinations through new hiring and trainings on best practices regarding migrant children.

- The U.S. government should encourage the Mexican government to expand its support for and collaboration with civil society organizations working with migrants and children and continue its collaboration with UNHCR, UNICEF, and other international organizations.
- The U.S. government should reexamine support for any Mexican immigration enforcement initiatives that violate Mexican or international law or undermine children's access to protection. The U.S. government should instead support efforts to strengthen Mexico's capacity to protect migrants and to receive children seeking protection, with an emphasis on ensuring access to asylum for children, families, and other vulnerable groups, as well as access to safe shelter, food, education, and other necessities in Mexico.
- The U.S. government must press the Mexican government to fully and consistently comply with the *Ley General de los Derechos de Niñas, Niños y Adolescentes* (LGDNNA) and the *Ley de Migración* (LM), especially regarding:
 - The issuance of a TVRH and CURP from the Instituto Nacional de Migración (INM). Possessing a TVRH with CURP is critical to ensuring children in Mexico can access health, education, and social assistance services to which they are entitled.
 - Ensuring that children are only returned to their country of origin if it is determined appropriate by the federal and local child protection offices (*Procuraduría de Protección*) through an individualized evaluation and a best interests determination.
 - Providing access to free and quality legal representation for children in their legal proceedings, whether provided by government child protection offices or other public authorities, pro bono lawyers, or legal services providers. The provision of information about relevant processes and children's legal rights is essential to help children understand and participate in legal processes and decisions that affect them and to meaningfully access protections for which they may be eligible.
- The U.S. government should support Mexico in its efforts to address causes of forced displacement of children within the country such as forced recruitment of children to organized criminal groups.

Ensuring Proper and Efficient Screening and Care of Unaccompanied Children at U.S. Borders

Background

Children who reach the U.S.-Mexico border searching for protection and safety have often fled severe harm, including sexual assault and human trafficking. U.S. policy towards children arriving at the border must be rooted in humanitarian approaches that recognize children's unique circumstances and rights while promoting safe and orderly processing by U.S. Customs and Border Protection (CBP). Such policies must also uphold the legal protections required by the TVPRA, *Flores Settlement Agreement*, and other relevant domestic and international laws. The TVPRA is a pillar of the U.S. system for protecting unaccompanied children from trafficking and exploitation--directing the provision of screenings for protection needs and other safeguards, and playing a critical role in safe, orderly, and efficient migration management at U.S. borders. DHS's Office of Health Security (OHS) is currently operationalizing a Child Well-Being Program that, optimally implemented, stands to advance the dual objectives of meeting children's unique vulnerabilities on the one hand, and strengthening the efficiency and orderliness of border processing on the other. Through this program, OHS intends to deploy licensed child welfare professionals to CBP facilities across all U.S. southern border sectors. These experts will help coordinate the care and screening of migrant children held in CBP custody, thereby freeing up CBP agents and officers to dedicate their time and resources to the vital law enforcement duties for which they are trained. In this way, the Child Well-Being Program will directly enhance U.S. border security. Congress has supported funding for these professionals on a strong bipartisan basis, and continued congressional support for this initiative will remain critical.

Notwithstanding this and other progress, several gaps remain in ensuring safe and appropriate reception of unaccompanied children at U.S. borders. In recent years, in response to increases in migration of children and families seeking protection at the U.S.-Mexico border, successive administrations have implemented measures seeking to reduce or deter migration. In practice, these policies have led to significant challenges for appropriate screening and care of children in the U.S. immigration system, and risked exacerbating children's vulnerability. Measures such as the Remain in Mexico policy and the pandemic-era "Title 42" policy alternately resulted in children and families being required to wait in Mexico for their U.S. immigration proceedings, or led to turnbacks and expulsions of children and families to their countries of origin, often without due process and protection screenings required by law to ensure they would not face trafficking or other harm if returned.

Recognizing the protections afforded to unaccompanied children through the TVPRA and *Flores*, the current Administration has rightfully exempted unaccompanied children from the most restrictive border policies. The Administration exempted unaccompanied children from the pandemic-era Title 42 policy, which it then lifted altogether in May 2023. In its place, the Administration implemented a rule on Circumvention of Lawful Pathways that greatly restricts the ability of asylum seekers to qualify for asylum in the United States in all but a few limited circumstances by requiring that people seeking protection use certain lawful pathways, make an appointment through an online app to request protection at the border, or have first applied for and been denied asylum in another country.^{xx} The rule, which is currently the subject of litigation, includes an exemption for unaccompanied children, consistent with the TVPRA.^{xxi} In June 2024, the Administration issued a Presidential Proclamation and an interim rule on securing the border that similarly restricts access to asylum, with an exemption for unaccompanied children.^{xxii}

In addition to complying with federal law, such exemptions are essential to helping protect unaccompanied children from trafficking by ensuring their access to safe, efficient, and lawful means to seek protection. However, exemptions of unaccompanied children do not in and of themselves ensure children's safe access to protection at the U.S.-Mexico border nor uphold family unity. Experience with restrictive policies has demonstrated that even when unaccompanied children are exempt from such policies, they often face significant barriers to accessing protection at the border and face harmful turnbacks, family separations, or confusion about procedural protections that hinder their ability to request protection. Those outcomes may force children to wait in unsafe and precarious living conditions, limiting their ability to seek protection and undermining the goal of safe, orderly, and humane migration management. The Circumvention of Lawful Pathways Rule and Presidential Proclamation on Securing the Border, for instance, undermine the safety of all children by creating a more dangerous and unstable environment for anyone attempting to seek protection at the border.

In addition to ensuring that unaccompanied children can safely access protection at border crossings and ports of entry, it is vital that children's reception and care by U.S. border authorities be rooted in an understanding of children's unique needs and circumstances. In the recent past, however, children in CBP custody have been subjected to sub-standard care, including inadequate access to food, water, medical care, and basic necessities.^{xxiii} The Administration has made strong progress in ensuring that children are not held in CBP custody longer than 72 hours, and has begun the rollout of the Child Well-Being Program, but conditions in CBP facilities remain inadequate for children. DHS's recent use of Open-Air Detention Sites created harmful and unsafe conditions for children, exposing them to prolonged detention and failing to provide sufficient shelter, food, and other needs. Recently, a federal court ruled that DHS's use of the sites violated *Flores* and that they may not be used for the prolonged care of children.^{xxiv} Improvements to the care of children in CBP custody must remain a critical priority.

The last three years have also seen increasing numbers of children arriving by sea, mostly from Haiti and Cuba. Since the summer of 2021, the U.S. Coast Guard has interdicted more than 27,000 people attempting to migrate by sea, the most of any similar period in nearly three decades. Those who make the journey often do so on overcrowded, unsafe vessels, risking their lives to reach U.S. shores. The majority of people interdicted at sea—including unaccompanied children—are delivered back to the countries they left, without application of the same procedures afforded to

immigrants encountered on land to ascertain protection risks. The dynamic landscape of these arrivals poses a challenge to the U.S. Coast Guard, but concerted efforts must be made to ensure the safety and well-being of children migrating by sea that recognize children's unique vulnerabilities and needs.

The path forward requires the implementation of specific and explicit procedures and protections for unaccompanied children at all U.S. borders and ports of entry, or at sea, and renewed efforts to ensure safe and appropriate conditions and care for children in CBP custody.

Recommendations

- DHS should continue its initiative to hire and deploy licensed child welfare professionals in each southern border CBP sector. These professionals should play a central role in ensuring appropriate care and screening of children in CBP custody, including by improving identification of trafficking indicators and lending expertise that helps to prevent unwarranted family separations. The next Administration should request that Congress continue to robustly fund the Child Well-Being Program.
- DHS and HHS should continue and expand their collaboration to co-locate specialists from ORR in CBP border facilities. Children separated from non-parental family members at the border are unaccompanied children who fall under ORR's authority as the agency undertakes family reunification efforts and determines whether to approve those relatives as sponsors for the child. By expanding the co-location of ORR specialists who can immediately commence the family reunification process in CBP custody, the Administration can improve efficiency, reduce the need for children to stay for long periods of time in ORR custody, drive down taxpayer costs, and decrease the time in which children are apart from safe and loving caregivers—while at the same time ensuring that such releases are in the best interests of the child. Expedient processing, however, must never compromise the completion of required safeguards, including the evaluation of sponsor safety and suitability and any required background checks.
- DHS must ensure unfettered access to territory at border crossings and at ports of entry for unaccompanied children as required under the TVPRA. The policy landscape at the U.S.-Mexico border includes several overlapping sets of restrictions and requirements for adults and families, but which exempt unaccompanied children. While those exemptions are vital, the overall shift towards restrictions at the border has significantly constrained children's ability to seek protection at the U.S.-Mexico border. Such policies should be reconsidered and replaced with measures providing for orderly humanitarian reception and full and fair consideration of protection claims to prevent the return of individuals to harm. While current restrictions on access to protection remain in place, or if further restrictions are implemented, it is vital that unaccompanied children be exempted from such policies to ensure their protection from human trafficking, exploitation, and other harms. The U.S. government must also communicate with Mexican agencies operating on the U.S.-Mexico border and along transit routes to ensure that unaccompanied children are able to access border crossings without interference to request protection. Coordinated enforcement efforts with authorities in Mexico and throughout the region have led to interdictions and turnbacks that create dangers for children forced to migrate in search of safety.
- The Administration must ensure continued and improved monitoring of CBP custody of unaccompanied children, including by upholding access to CBP facilities by *Flores* monitors and facilitating complementary monitoring by qualified human rights and civil society organizations working on behalf of unaccompanied children to ensure care is aligned with the law, children's rights, and children's best interests. Additionally, the Administration should support and work with Congress to pass into law the Protection of Kids in Immigration Detention (PROKID) Act, which would create within HHS an Office of the Ombudsperson for Immigrant Children in Immigration Custody to conduct monitoring and oversight over care and treatment of children in HHS and DHS custody.
- CBP should ensure effective language access for unaccompanied children and other migrants, including through a robust system for promptly and accurately identifying language needs. CBP should furnish qualified interpreting

services during screening and processing whenever staff proficient in migrants' preferred languages are unavailable. CBP must also provide translations of relevant documents, such as consent forms and medical information, into preferred languages.

- The Administration must update and publicly share policy guidance ensuring that children are entitled to procedural and substantive legal protections in the maritime context, including within the territorial sea and contiguous zones, as well as on the high seas. Those guidelines must ensure prompt identification of children when interdicted, ensure appropriate screening for trafficking, uphold children's right to protection, and be in line with U.S. and international refugee law.

Strengthening ORR Care and Custody of Unaccompanied Children

Background

The quality and safety of ORR's care of unaccompanied children poses broad implications for children's well-being and the government's preparedness to respond to increases in child migration globally. By providing for children's individualized care in state-licensed programs, and robust procedures for evaluating children's sponsors, ORR helps to meet children's particular vulnerabilities and protect them from human trafficking, exploitation, and other harm. ORR care also positively contributes to orderly border management—averting harmful overcrowding of children in border facilities and reducing the need for costly and resource-intensive emergency facilities.

Over decades, numerous reforms have sought to improve the care of children in the custody of federal immigration authorities and to better align agency practice with fundamental child protection principles. The *Flores* Settlement Agreement, which was signed in 1997, together with related regulations promulgated by ORR in 2024, provide national minimum standards for children's treatment, care, and release.^{xxv} The Homeland Security Act of 2002 (HSA) similarly provides protections for unaccompanied children and transferred responsibility for their care and placement from the former Immigration and Naturalization Service to ORR,^{xxvi} based on ORR's child welfare expertise and experience working with refugee populations. Immigration enforcement functions remained purposefully distinct and assigned to the new DHS. This division of responsibilities promotes children's safety and well-being by ensuring that ORR can prioritize children's best interests during care and in family reunification efforts to minimize institutional care and unnecessary separations from parents or other suitable family caregivers. Safeguards enacted through the TVPRA on a broad bipartisan basis build on these protections by providing for identification of appropriate care placements, safety and suitability assessments of potential sponsors, and access to legal representation and child advocates.

Recent news reports about pervasive labor exploitation of unaccompanied children by companies and industries have renewed attention on the importance of ensuring children's safety and well-being, not only when in ORR's care but also after release. This includes thorough evaluations of sponsors and the provision of post-release legal and psychosocial services to assist children in learning about their rights, accessing legal protection, identifying and avoiding exploitative situations, and connecting with assistance to access schooling, counseling, and other services that can reduce their vulnerability.

Despite the critical importance of enhancing safeguards and oversight of ORR care, several policies recently proposed in Congress and pursued during prior administrations risk imperiling, rather than advancing, children's safety. These proposals include measures that would erode the distinction between ORR's care mission and DHS's immigration enforcement responsibilities, including by transferring care of unaccompanied children to DHS, and imposing harsh penalties or restrictions on sponsors that could deter family members from caring for children, delay family reunification, and expand child detention.

Simultaneously, several policy changes at the state, local, and federal levels have eroded third-party oversight over ORR's care and placement of children precisely when it is most needed. In recent years, states such as Texas and

Florida have discontinued state licensing of ORR-funded shelters and facilities serving unaccompanied children. While articulated as a means of combating human trafficking of children in government care, these measures in practice increase safety risks by eliminating regular and independent monitoring and oversight over the conditions in which children are held and of compliance with minimum child welfare standards. At the federal level, ORR recently finalized a regulation intended to codify the *Flores* Settlement Agreement as it applies to HHS programming and to incorporate additional best practices for child welfare and child protection. Although the rule includes several important improvements to better meet children’s needs, it provides expansive exceptions to state licensing of ORR programs in locations where it is not offered and dilutes third-party monitoring that is necessary to ensure standards, laws, and policies will be implemented in practice.

In June 2024, the federal district court overseeing *Flores* partially granted the government’s request to terminate the application of the Agreement to HHS on the basis of this regulation. Although *Flores* presently remains in force with regard to certain provisions relating to restrictive placements and currently permits continued monitoring by *Flores* counsel, this decision nevertheless represents a significant shift in oversight over ORR’s care of children. Robust mechanisms to ensure that ORR meets child welfare standards and best practices remain critical to uphold children’s well-being and rights and to prevent violations that harm children.

With several humanitarian crises compelling historic levels of forced displacement globally, it is imperative that ORR—and the whole of the U.S. government—prepare to meet the needs of children from a range of countries and ensure high-quality care, services, and protections in the best interests of each child. This means ensuring that children awaiting reunification will be cared for in family-based settings, rather than in large congregate or unlicensed influx facilities that are unsuited for individualized care. It means providing legal representation for every unaccompanied child to eliminate longstanding gaps that leave too many children unable to understand immigration proceedings or to access humanitarian protections for which they are eligible. These efforts must be met with stringent and independent monitoring and oversight to identify, remediate, and deliver accountability for any violations of standards, laws, and policies by programs or agencies. The government’s commitment to the well-being of unaccompanied children must be communicated and leveraged across ORR and all federal government components to ensure all children are centered from the start in policymaking that affects them.^{xxvii}

Recommendations

- HHS should undertake department-wide efforts to fully implement the final UC Program Foundational Rule and the *Flores* Settlement Agreement and take additional efforts to ensure ORR programs are state licensed for the care of dependent children. Such efforts may include ORR’s issuance of rulemaking that would provide for federal licensing of ORR programs in states that do not offer licensing for programs serving unaccompanied children.^{xxviii} The Administration should also counter any congressional efforts to repeal the Foundational Rule through Congressional Review Act resolutions or to defund implementation of the rule through appropriations bills or other legislation. As the rule covers nearly every aspect of children’s care by ORR, these measures risk undermining or shuttering ORR’s Unaccompanied Children Program—upending longstanding bipartisan commitment to children’s protection from trafficking and other harm and risking children’s indefinite detention in CBP facilities that pose a danger to their safety and well-being.
- ORR should fully and promptly operationalize the UC Office of the Ombuds provided for by the final UC Program Foundational Rule and issue additional rulemaking to ensure the most robust monitoring and complaint mechanisms possible. The Ombuds Office’s monitoring visits and authority should encompass all ORR placement types and programs, including out-of-network facilities and restrictive placements, to ensure the well-being of all children in the government’s care. ORR should ensure that the Ombudsperson has authority to proactively investigate conditions and programs to ensure compliance, respond to concerns, and require corrective actions. As part of these efforts, the Administration should support complementary legislative efforts, such as the Protection of Kids in Detention Act (PROKID), that would establish an HHS Ombuds Office with authority to issue binding recommendations.

- ORR should significantly strengthen its internal policies for monitoring facility compliance with ORR guidance and licensing standards. On-site monitoring should occur at least annually, with monitoring findings made publicly available. ORR must delineate specific requirements for facilities located in states that do not provide licensing to ORR programs serving unaccompanied children. HHS should embrace an intensive and interdisciplinary approach toward monitoring of its programs—accommodating and supporting oversight by *Flores* monitors as well as other independent experts in child welfare and protection of unaccompanied children. Monitoring should cover compliance with the UC Program Foundational Rule, ORR policies, state licensing requirements, and other relevant state and federal laws and rights. HHS should collaborate with international and nonprofit organizations with expertise in child protection and human rights as well as state ombuds offices to improve awareness of issues facing children, identify and prevent rights violations, and create child-centered monitoring tools. ORR should develop additional, accessible complaint mechanisms through which children, their families, and service providers can expeditiously report noncompliance or violations that may occur. Policies should ensure robust corrective action to ensure timely and meaningful response to any violations or abuses and to prevent further harm. Such measures should include routine review of contracts as well as procedures for immediately terminating contracts with programs and facilities in which serious abuses or harm have occurred.
- ORR should uphold its independence from the law enforcement functions of other federal departments and agencies to best effectuate its child welfare mission. Prohibitions on the sharing of children’s confidential case information with DHS and the immigration courts should be strengthened and reinforced through regular and ongoing trainings. This information should include discussion of the particular sensitivity of counseling and mental health services provided to unaccompanied children in ORR care and the importance of programs complying with limitations on the sharing of information obtained from children during these services.
- ORR’s efforts to combat human trafficking and labor exploitation of children should be rooted in a child- and victim-centered approach. ORR must comply with all mandatory reporting and referral obligations when objective indicators of human trafficking are present. This should include notification of a child’s attorney if ORR suspects that the child may be a victim of trafficking in order to facilitate legal screening of the child. Legal representation can also aid in the coordination of services to help uphold the child’s rights and reduce the risk of re-traumatization through repeated interviews about sensitive and traumatic experiences.
- ORR should dedicate robust funds to fully realize the TVPRA’s mandate to provide legal representation for all unaccompanied children to the greatest extent practicable. Such funding must include support for both direct and pro bono legal representation to build capacity to serve all children and meaningfully close representation gaps that risk the return of children to harm and persecution. Prior to opening a new program or ORR facility, ORR should ensure that a legal service provider is in place to provide every child in the facility a Know Your Rights presentation, legal screening, and referral and ongoing access to legal services to ensure that they receive fair adjudications grounded in due process.
- ORR must give full effect to the TVPRA and *Flores* requirements that children be placed in the “least restrictive setting” consistent with their age and needs by prioritizing and expanding appropriate and inclusive family-based placements, including any reasonable accommodations, for particularly vulnerable children, including LGBTQ+ children and youth, Indigenous children, children with disabilities, and children with mental health needs. ORR should develop and announce a plan for shifting away from reliance on congregate and unlicensed care facilities and toward a community-based model of care.
- ORR should proactively monitor the number and demographics of children coming into care to ensure sufficient capacity of licensed family-based and small-scale placements, including in times of high arrivals. Influx facilities should only be used as a last resort when the number of children in need of placement exceeds ORR’s capacity for licensed placements and for the shortest duration necessary. When influx placements are necessary, ORR must ensure compliance with congressional limits and regulatory standards for the use of such facilities and collaborate

with nongovernmental organizations with expertise in working with unaccompanied children to ensure that these facilities are designed, equipped, and administered consistent with child welfare standards. ORR must ensure access to Know Your Rights presentations, legal screenings, and legal representation for children in influx facilities and prioritize locating any such facilities in geographic areas where legal and social services are readily available.

- ORR must ensure full compliance with settlements in *Lucas R. v. Becerra*,^{xxxix} in recognition of the critical implications of a child's placement in restrictive settings for the child's well-being, rights, and ability to access legal protection. ORR must ensure all staff and care providers are trained on settlement provisions, including requirements pertaining to consent for the administration of psychotropic medications, access to legal representation, and provision of necessary plans, services, placement, and release for children with disabilities. ORR should conduct robust oversight of any out-of-network placements to ensure compliance with necessary standards and provision of required services.
- ORR should initiate rulemaking updating and providing robust standards and procedures for preventing sexual abuse, assault, and harassment of children in ORR custody and for investigating allegations of child abuse and neglect in ORR programs in states that do not provide for state licensing of programs serving unaccompanied children.^{xxx}
- ORR should ensure the timely creation of comprehensive post-18 plans for every youth aged 17 or older who is aging out of ORR custody. Post-18 plans help to ensure placements in the least restrictive setting appropriate and services for youth that can minimize the risk they will be transferred to DHS detention upon turning 18, become homeless, face exploitation, or experience hardship following release. These plans are critical to support young people's safety, well-being, and resilience as they approach adulthood.

Combating Labor Exploitation of Unaccompanied Children

Background

In recent years, press accounts have brought into devastating relief widespread labor exploitation by companies and employers of unaccompanied children in the United States.^{xxxi}—a practice that spans states and industries. Abuses described include 12-year-olds employed at automotive suppliers, limbs severed at factories, and spines broken at construction sites.

Although it is difficult to assess the current scale of labor law violations involving unaccompanied children, these accounts come amid a troubling rise in U.S. child labor broadly, including among U.S. citizen children. In April 2023, the Department of Labor (DOL) announced that violations of child labor laws had increased by 69 percent since 2018.^{xxxii}

Numerous factors contribute to labor exploitation of unaccompanied children, including widespread gaps in legal and social services for children as they navigate adversarial immigration proceedings and transition into new communities; lack of economic security; language barriers; U.S. labor shortages; rollbacks in state protections against child labor; and underfunding of DOL's enforcement of child labor standards. Eradicating labor exploitation of unaccompanied children requires a vigorous whole-of-government approach in partnership with advocates and the private sector that is responsive to the myriad ways that exploitation arises and children's particular needs and vulnerabilities.

The executive branch has taken important steps to meet this challenge. For example, since the passing of the TVPRA, many federal agencies like DOL, Equal Employment Opportunity Commission (EEOC), and the Occupational Safety and Health Administration have created procedures through which certain children subjected to labor abuses can pursue legal protection through a U or T visa certification. More recently, in February 2023, DOL launched a National Strategic Enforcement Initiative on Child Labor in addition to forming an Interagency Task Force to Combat Child Labor Exploitation in which HHS plays an active role.^{xxxiii} HHS and DOL also entered into a Memorandum of Agreement to

improve information sharing, coordination, and training to help prevent and mitigate such exploitation.^{xxxiv} ORR updated its policies such that when unaccompanied children disclose safety concerns through the ORR National Call Center, ORR must now not only refer those calls to appropriate law enforcement agencies or child protective services but also follow up directly with the children themselves.^{xxxv} Additionally, ORR has organized multiple audits assessing adherence to its sponsor vetting policies and created a Program Accountability team to help identify and mitigate any abuse in the Unaccompanied Children Program.^{xxxvi} But more efforts are needed to stamp out labor exploitation of unaccompanied children and to empower children to thrive in communities throughout the nation.

Ultimately, no policy response is more crucial than ORR's expansion, supported by Congress, of legal and social services provided by trusted attorneys and social workers to unaccompanied children released from ORR custody. Attorneys are vital to assist unaccompanied children in understanding and enforcing their legal rights, securing stability through pursuit of immigration status and lawful and safe employment where eligible and appropriate; and to identifying and referring children to necessary assistance to avoid and leave situations of exploitation. Yet many if not most unaccompanied children around the nation lack attorneys. Social services are similarly limited for many children, despite their critical role in supporting children's resilience and reducing vulnerability. For example, social workers and other social services professionals conduct in-home visits to many released unaccompanied children, support their educational enrollment and progress, and provide family reunification assistance to help ensure the safety of sponsor placements and promote children's integration into local communities. Both social and legal services play an important role in helping children report their cases to law enforcement for investigation and criminal and civil enforcement. Attorneys can also assist children in seeking U and T visas, as well as protect their rights as victim-witnesses, secure their safety, and advance their interests throughout investigations and government enforcement actions.

The Administration has set a goal of achieving legal representation of all unaccompanied children by fiscal year 2027^{xxxvii} and furnishing social services to all released unaccompanied children by fiscal year 2025.^{xxxviii} It is imperative that ORR meet these aims and that Congress fund the agency commensurately.

Recommendations

- HHS should provide legal and social services to all unaccompanied children released from its custody and should urge Congress to fund these services accordingly.
- ORR should advance ongoing efforts to ensure that its legal services programming optimally informs unaccompanied children and sponsors of relevant rights under child labor laws and of mechanisms for reporting child labor violations, including by incorporating best practices from KIND's Labor Exploitation Prevention Programs.^{xxxix}
- The Department of Labor should aggressively enforce compliance with child labor standards, request increased congressional appropriations for DOL's Wage and Hour Division and Office of the Solicitor, among other departments, and urge the passage of federal legislation heightening civil monetary fines for offending companies. Complementary enforcement efforts by the EEOC, with involvement from OSHA and coordination with state agency counterparts, can bolster compliance and further deter violations.
- All members of the Interagency Task Force to Combat Child Labor Exploitation, particularly those with a relevant Office of Inspector General (OIG), should ensure that their own agencies have robust, child-centered, trauma-informed U and T visa certification protocols and policies, and receive training specific on the types of criminal activities that qualify for certification in child labor exploitation and trafficking cases. Certain federal agencies such as the DOL, DOJ, and USCIS can also lead and provide trainings on U and T visa certification of child labor exploitation with other federal agencies, as well as with other local and state enforcement agencies, including state and local labor enforcement agencies and child welfare agencies. Such efforts can also include information about measures such as DHS's Deferred Action for Labor Enforcement policy, which helps to reduce fear of reporting violations and retaliation by enabling agencies to request DHS's assistance in investigating and enforcing violations

of labor standards and laws and by permitting impacted individuals to apply for discretionary protection from removal.^{xi}

- The Department of Education should collaborate with state governments to improve unaccompanied children's access to educational programming that promotes safe and healthy community integration. The Department of Education and state education agencies should ensure that funding for newcomer and unaccompanied child education accounts for, and advances access to, innovative learning models that meet these youths' linguistic and cultural needs. These models may feature flexible schedules, multilingual language services, financial literacy, population-specific secondary education preparedness, and work-study and appropriate vocational or career-ready programs.

Fairly and Efficiently Adjudicating Unaccompanied Children's Cases

Background

With the immigration court backlog now approaching four million cases and projected to continue growing rapidly, pragmatic solutions for strengthening efficiency of immigration adjudications while enhancing due process are needed more than ever. Unaccompanied children face unique obstacles in navigating the complex U.S. immigration system. That system, in turn, confronts singular complications in managing these children's cases. For this reason, both EOIR, which oversees the immigration courts, and USCIS, which adjudicates children's claims for Special Immigrant Juvenile Status (SIJS) and initial applications for asylum, among other forms of humanitarian protection, should have specialized structures for children's adjudications that are child-appropriate, improve efficiency, and include safeguards responsive to children's needs.

Only by adjudicating children's cases in a way that ensures heightened procedural protections like those mandated under the TVPRA can the government achieve due process for this vulnerable population and protect children from trafficking and other dangers. For example, the TVPRA provides unaccompanied children the right to have an asylum application adjudicated in the first instance by USCIS.^{xii} USCIS's initial jurisdiction is an important safeguard because it guarantees unaccompanied children the right to have their asylum claims first considered in a non-adversarial interview with asylum officers—an environment more conducive than the adversarial immigration court setting to a child's recounting of the traumatic events and fears of persecution underlying their claims for asylum. Moreover, an asylum interview is usually a more efficient and cost-effective method to adjudicate a claim than a trial in immigration court. Unaccompanied children must maintain this right throughout their immigration proceedings, even if they turn 18 years of age or reunify with a parent or legal guardian.

When a child does need to go to court, KIND supports the establishment of a children's court or children's division of an independent immigration court to adjudicate children's cases that would focus on the best interests of children, including prioritizing child safety, permanency, and well-being. A children's court should be designed to address the vulnerabilities of children, similar to juvenile courts in other disciplines, and it should employ a coordinated approach with USCIS that minimizes adjudication redundancies while limiting burdens on children and repeated inquiry into traumatic past events. Until such a court is established, EOIR should continue to expand the utilization of specialized children's dockets among the immigration courts that are dedicated to handling unaccompanied children's claims. Children's dockets should focus on ensuring due process, expanding child-friendly court practices, improving anti-trafficking safeguards, and conserving adjudication resources, including by streamlining applications for applicable legal relief for unaccompanied children's immigration cases.

KIND has advocated for all such dockets to include specialization among the judges, including ongoing training on topics such as child development, trauma-informed practice, indicators of child trafficking, and children's claims for immigration relief; engagement by DHS to form a dedicated, trained cohort of trial attorneys who handle these cases;

child-appropriate adjudications, including the use of docket management tools to grant continuances sufficient for a child to secure counsel, and to terminate or close proceedings where appropriate; and coordination with legal service providers to provide legal assistance and referrals during children’s dockets to the maximum extent possible.

In March 2022, USCIS announced it would begin considering Special Immigrant Juveniles—certain immigrant youth who have survived parental abuse, abandonment, or neglect and for whom a state court has determined it is not in their best interests to be returned to the country of origin—for deferred action if a visa number was not immediately available to them.^{xliii} With a positive determination for deferred action, SIJS recipients are protected from deportation and eligible for employment authorization, allowing them a measure of protection and independence while they await visa availability. The backlog of SIJS recipients awaiting the opportunity to apply for lawful permanent residence has rapidly increased in recent years, leading to increasingly lengthy wait times; the SIJS deferred action policy helps provides vulnerable young people with much needed stability during their years-long wait.

In December 2023, EOIR released a new Director’s Memorandum on Children’s Cases in Immigration Court.^{xliiii} The Memorandum states that each immigration court will have a specialized children’s docket that will be held separate from adult cases and will be overseen by dedicated judges. It also states that judges will have ongoing training, articulates child-friendly practices the courts should adopt, lays out protocols for better identifying and mitigating child trafficking and exploitation, and establishes procedures to streamline immigration judges’ dockets. DHS announced a commitment to creating a cohort of specially trained attorneys within the Office of the Principal Legal Advisor (OPLA) to represent the government in the specialized children’s dockets and developed a framework intended to improve the well-being of children in immigration court.^{xliiv} The guidance in the Memorandum and complementary commitments from OPLA reflect meaningful progress in moving toward a separate, child-appropriate structure for unaccompanied children’s immigration proceedings that will enhance the efficiency of the overburdened immigration court system; improve fairness in unaccompanied children’s cases; and strengthen protection of unaccompanied children against human trafficking and exploitation. The commitments of the two agencies echo in key respects the Immigration Court Efficiency and Children’s Court Act—a bipartisan, bicameral bill that draws on best practices for children’s proceedings employed in other judicial settings to formally establish a Children’s Court within EOIR.^{xliv}

DOJ has made progress in clarifying the availability of docket management tools like administrative closure and termination that help ensure fairness and efficiency for unaccompanied children, who are often applying for legal relief before USCIS while concurrently facing removal proceedings. The Attorney General overruled a 2018 Attorney General decision that had held that use of administrative closure by immigration judges was not authorized^{xlvi} and issued a new decision restoring the ability of judges to terminate proceedings.^{xlvii} Further, EOIR issued a new regulation codifying the ability of immigration judges and the Board of Immigration Appeals to administratively close or terminate removal proceedings.^{xlviii} This regulation preserves the ability of judges to temporarily remove a case from the court’s active calendar or docket or terminate proceedings for unaccompanied children who are awaiting adjudication of applications before USCIS. These measures represent important steps toward a more efficient court system that preserves limited judicial and Immigration and Customs Enforcement resources.

Recommendations

- EOIR should ensure robust implementation of the Director’s Memorandum on Children’s Cases in Immigration Court throughout the various immigration courts. To this end, EOIR should publicly report on: the name and number of immigration courts implementing children’s dockets; training that has been provided to children’s docket judges; protocols for assessing individual court compliance with the Memorandum as well as corrective actions taken in the event of noncompliance; methods that courts are using to facilitate legal representation for children; and any immigration court resources conserved by utilization of children’s dockets. Congress, for its part, should mandate such reporting through the annual appropriations process.

- The Administration should urge passage of the Immigration Court Efficiency and Children’s Court Act in order to codify a distinct structure for children’s adjudications in immigration court.^{xlix}
- EOIR should utilize local and regional pro bono committees to coordinate with qualified providers of legal services for unaccompanied children in order to maximize opportunities for attorneys to be present at court during children’s dockets to provide legal information, assistance, and/or referrals.
- The Attorney General should vacate the 2018 Board of Immigration Appeals decision in *Matter of M-A-C-O-* that ushered a shift in practice by permitting immigration judges to preempt USCIS’s initial jurisdiction over the asylum applications of unaccompanied children who have turned 18 years of age prior to filing their application.^l To promote consistency, EOIR should issue additional guidance to judges underscoring the importance of facilitating USCIS’s initial jurisdiction over unaccompanied children’s asylum claims and the availability of docket management tools as needed for this purpose.
- EOIR should avoid implementation of policies that rush case completions at the expense of due process, including case completion deadlines or performance metrics for immigration judges mandating expedited adjudications.
- DHS should continue current policy of filing a Notice to Appear for an unaccompanied child after sufficient time has passed to allow the child an opportunity to reunify with sponsors and obtain counsel before they are required to make any pleadings in their cases.
- USCIS should manage unaccompanied children’s cases—from the drafting of relevant immigration benefit forms to the administration of interviews and the completion of adjudications—through comprehensive child-appropriate practices and procedures. For example, echoing core principles of specialized children’s dockets in the court context, USCIS should create a specially trained cohort of asylum officers assigned to unaccompanied children’s asylum applications. Such approaches would improve agency efficiencies through economies of scale while strengthening adjudication fairness.
- USCIS should adjudicate in a timely manner all applications and petitions filed by unaccompanied children. In particular, the agency must ensure that all SIJS petitions are adjudicated within the statutorily required timeframe of 180 days from the date of filing.
- USCIS should make permanent the temporary final rule increasing the period for which the work permits of certain renewal applicants will be automatically extended. By increasing the relevant period from 180 days to 540 days the rule helps to ensure that children who timely file applications to renew their employment authorization documents (EADs) will not experience lapses in eligibility and potential job loss if USCIS fails to adjudicate their application before their current EAD expires. To ensure additional stability for children and others amid persistent agency backlogs USCIS should increase the extension period to 730 days. Doing so would conserve limited agency resources.
- The Administration should support the passage of the Protect Vulnerable Immigrant Youth Act, a bill exempting SIJS recipients from annual visa caps and thus ensuring timely access to permanent status for vulnerable youth.^{li}
- Building upon the SIJS deferred action policy, the Administration should urge Congress to codify access to employment authorization for SIJS recipients, allowing SIJS recipients to obtain employment authorization upon approval of their SIJS petition, in line with statutes allowing other vulnerable applicants to obtain such authorization. Because USCIS and EOIR resources are vastly overstretched, the Administration should continue to request increased congressional appropriations to ensure efficient and effective agency operations and to help the agencies reduce the serious and growing backlog of immigration cases.
- EOIR should revise its organizational structure to remove the Office of Legal Access Programs (OLAP) from the Office of Policy and restore it to its prior placement within the Office of the Executive Director. The Administration should

also promulgate regulations to ensure that OLAP is a separate component within EOIR. This change is necessary to ensure OLAP's authority to promote robust legal access programs, which are critical across all age groups but are particularly important for ensuring that the rights of unaccompanied children are protected.

Healthy and Safe Integration of Unaccompanied Children into Communities

Background

For many unaccompanied children, the process of obtaining protection from harm may take years and involve not only a dangerous journey but a series of immigration proceedings and other transitions once in the United States. Case management and post-release psychosocial services play an important role in supporting children as they are released from government care, reunify with family, heal from trauma, and navigate school, work, or other needs. Such support both addresses children's particular needs and vulnerabilities and builds on their strengths and resilience to help them achieve greater stability, participate in their legal cases for protection, and become engaged, productive members of their communities. Investments in unaccompanied children's integration are ultimately an investment in American prosperity.

Post-release psychosocial services funded by ORR include, for example, mental health services to assist children who have survived violence and trauma as well as family reunification services to help facilitate safe and sustainable placements as children and their sponsors come together. Post-release social services can also help children enroll in school or pursue vocational or employment opportunities, where eligible, to advance their goals, build community connections, and reduce their vulnerability to exploitative situations. Importantly, however, ORR-funded post-release services may end once a child turns 18 or at the conclusion of their immigration proceedings, whichever is earliest. Assisting children in accessing vital services after this time is essential to addressing ongoing needs and to preventing disruptions that may set-back progress or increase vulnerability. NGOs can play a helpful role in providing referrals and links to community service providers that assist unaccompanied children, just as those providers can connect children to attorneys.

For many children, health care is an especially important need, as ORR typically does not pay for such care following a child's release. Access to medical, mental, and dental health care helps to ensure routine care for preventative health as well as emerging or chronic illness and conditions, preventing harm to children and reducing strain on emergency care systems. It also protects children's well-being by preventing the deterioration of their health in ways that may increase their vulnerability to exploitation, for example, through the accumulation of medical debt. Providing culturally and linguistically responsive mental health services can support the positive trajectory of a child's reunification with their sponsor and family members and overall integration into the community.

Although several states maintain robust health care programs that provide coverage for all children, other children experience significant barriers in accessing this basic need without lawful immigration status as they apply for humanitarian protection. Barriers to enrollment include insufficient language access, disparities in digital literacy and access, and confusion among children and providers about eligibility due to immigration status. In recognition of the vital importance of health care for children's well-being, the Administration recently took steps to expand eligibility for federal health care exchanges under the Affordable Care Act, including for SIJ-approved youth.ⁱⁱⁱ Additional efforts that will facilitate access to programs such as the Children's Health Insurance Program (CHIP) and Medicaid for immigrant children remain critical.

Access to education—and efforts to address discrimination and other barriers that children commonly encounter—are of similar importance to support children's well-being. Schools are vital for fostering unaccompanied children's integration, as they help establish important peer relationships, nurture engagement with trusted adults trained to work with children, facilitate access to health care and food, and link children to important resources in the community. Education

of students who recently arrived in the United States optimizes children’s long-term contributions to the nation and bolsters the local, state, and federal economy; strengthens learning outcomes for U.S. citizen children; and reduces vulnerability to child trafficking and labor exploitation—benefitting all Americans. Congress and the Executive Branch should prioritize equal access to educational opportunities, regardless of a child’s immigration status, and support resources to help ensure quality education for all children. The government likewise must reject attempts at limiting educational access, which is protected under a Supreme Court ruling, *Plyler v. Doe*.

Many children have limited English proficiency upon arriving in the United States and face significant barriers in receiving information about or accessing health care and educational opportunities, as well as other vital services necessary for them to integrate into the community. The Administration has taken key steps to prioritize language access, including by appointing a language access coordinator within DOJ’s Office for Access to Justice. In November 2022, DOJ issued a memo requesting that federal agencies review their language access practices and policies.^{liii} This has precipitated important engagements between the federal government and stakeholders working with limited English proficient communities, including unaccompanied children, and updates to language access plans of many federal agencies^{liv} touching upon the daily lives of unaccompanied children such as the Social Security Administration,^{lv} DOL,^{lvi} and EOIR.^{lvii} Acknowledging that migration levels from Guatemala, Mexico, and other countries with large Indigenous populations have increased over the years, and that many Indigenous language speakers experience frequent forms of discrimination and exclusion from services—as reflected in the experience of unaccompanied children—in February 2024, DHS issued an Indigenous Languages Plan.^{lviii}

Collectively, these and other measures help children and youth access necessary assistance, heal from trauma, comply with immigration court requirements, achieve greater security, and build their futures in safety. The ease of transition throughout these processes to civic participation and potentially citizenship necessitates thoughtful policies and practices throughout the child’s immigration journey.

Some formerly unaccompanied children who obtained legal status as small children or in their early teens may be eligible to naturalize at 18 or 19 years of age, although most will likely meet the eligibility requirements while in their twenties. But this age group generally is slower to naturalize and therefore may be missing the benefits associated with citizenship, including access to more and better paying positions and the eligibility to vote.^{lix} They also remain at risk for future deportation as a result of immigration laws and policies that may be subsequently implemented. Additionally, young people often juggle multiple responsibilities and face difficult choices as they transition to adulthood, and their focus on education, employment, and supporting families in the United States or abroad during this period may limit their ability to prioritize the naturalization process. Fortunately, USCIS continues to recognize the importance of reducing barriers to naturalization; in its 2024 final fee schedule, USCIS established a discounted fee for naturalization applications for those individuals living in households at or below 400 percent of the federal poverty guidelines.^{lx}

A combination of enhanced post-release services, health-care services, education, and citizenship preparedness activities aimed at young people are all examples of ways to increase the likelihood that unaccompanied children released into U.S. communities will thrive.

Recommendations

- ORR should provide enhanced post-release psychosocial services to all unaccompanied children. ORR can play a critical role in supporting the safety and well-being of unaccompanied children who have been released from its custody. The Administration should ask Congress for robust funding so ORR can offer linguistically and culturally appropriate post-release social services to all unaccompanied children. Consistent with the ORR UC Program Foundational Rule these services and their duration should be tailored to the needs of the child based on age and other unique circumstances. Such flexibility should not, however, be used to justify a dilution in the quality or breadth of services offered to children more generally.

- ORR should ensure access to a broad range of post-release services that support short-term and long-term needs, including, but not limited to, legal services referrals, medical, mental, and dental health services, assistance with school enrollment and positive educational and vocational training outcomes, assistance with community integration, parent education and support, and family counseling.
- The Department of Education's Office for Civil Rights should request adequate funding to enforce laws that will protect unaccompanied children, including their right to a free public education regardless of their immigration status. Many unaccompanied children still face challenges enrolling in school due to difficulties related to language access, knowledge of how and when to enroll, and age discrimination for older youth. Even when enrolled, unaccompanied children are often not provided a learning environment that is responsive to their language access, education level, special education needs, or other specific challenges. More broadly, the U.S. government should reject all efforts to limit which children receive access to public K-12 education.
- The federal government should ensure robust planning for and implementation of language access across agencies. Fairly accessing critical services and meaningfully participating in federal programs and proceedings necessitates that all federal agencies continue to update their Language Access Plans to improve practice, address gaps, and proactively respond to changing or emerging needs. Ongoing monitoring and oversight of compliance by DOJ, particularly regarding language access issues related to state courts, health care, and education, can help ensure that language access plans are fully realized in practice.
- USCIS should ensure that formerly unaccompanied children are provided tools and information to assist them in preparing for naturalization. USCIS has made important strides in its initial efforts to reach out to young people eligible for naturalization. The agency should expand these efforts by developing targeted outreach to this population addressing the advantages of naturalization and helping children and youth to overcome the barriers they may face. USCIS should consider adding links and tools to its customer portal to increase awareness of naturalization and should create an opt-in system for receiving reminders about eligibility.
- The federal government should expand partnerships with K-12 schools as well as higher education institutions, particularly community colleges. We urge the government to promote citizenship at local colleges and universities, partnering with education leaders to implement programs in which young people can prepare for citizenship and simultaneously earn college credit.
- DHS should extend and expand the Deferred Action for Childhood Arrivals program and expand access to visas for DACA recipients. Although most DACA recipients are not unaccompanied children, the protection of young people and the need to provide them with tools for future success are equally important. Providing consistency in the support of all immigrant youth will lead to greater integration and inclusion.
- USCIS should request robust funds to support the Citizenship and Integration Grant Program. With more than nine million lawful permanent residents eligible to naturalize, of which 18 percent are under the age of 30, this grant program has provided crucial support to local organizations that assist in preparation for naturalization and in broader integration efforts. In FY 2024, USCIS intends to award \$10 million in citizenship and integration grants and another \$2.6 million in technical assistance grants to support increased capacity for organizations establishing naturalization programs. Despite its bipartisan origins and positive impact, the program remains under threat. Efforts to zero out the program or cut it substantially in the 2025 FY budget deliberations are counter-productive to strengthening communities and putting individuals, particularly young people, on the path to greater stability, economic prosperity, and civic engagement.

Ensuring Safe Return and Successful Reintegration

Background

Protection of children at all points of their migration journey requires thoughtful policies to ensure the safe return and successful reintegration of unaccompanied children who are ordered removed from the United States or who voluntarily depart the country. Through predeparture planning and services and connection to reintegration services upon return, the U.S. government can not only help uphold children's safety and stability in their countries of origin but also reduce the likelihood children will be compelled to re-migrate to the United States for protection—easing pressure at the U.S.-Mexico border.

In the immediate term, the U.S. government should advance these aims by establishing a safe return and reintegration program for unaccompanied children returning to El Salvador, Guatemala, and Honduras. Ultimately, the government should expand this initiative to ensure safe return and reintegration services for all unaccompanied children who are removed from the United States or who wish to return to their countries of origin. At no time should DHS deport an unaccompanied child absent robust protection screening by appropriate professionals and full and fair consideration of any legal claims through procedures that comport with due process.

Recommendations

- Supported by congressional funding, the U.S. government should expeditiously establish a discrete safe return and reintegration program for certain unaccompanied children returning to El Salvador, Guatemala, and Honduras. A core objective of this program should be to connect children with reintegration services to promote stability and prevent the need for impacted children to migrate in the future to the United States. This program should draw from proven successes and best practices that demonstrate how children who are provided a modest level of assistance are much more likely to be able to remain home safely and sustainably.
- In the longer term, the U.S. government should lead and coordinate cross-border efforts to provide comprehensive return and reintegration services to all returning children and request commensurate funding from Congress to support such initiatives.
- Return and reintegration efforts should be led by those with expertise in child migration and child welfare.
- Child welfare professionals should be the main point of contact for repatriated children. Child welfare professionals should meet with children in advance to inform them about the process and their rights, assess their needs and best interests, and accompany them on return flights (rather than immigration agents or contracted security/transportation services).
- DOS, USAID, HHS, and DHS should work with receiving countries, in particular El Salvador, Guatemala, Honduras, and Mexico, to develop formal cross-border case management systems for returns and repatriations. U.S. officials should formalize channels of communication with their counterparts in countries of origin to inform pre-departure planning and to better share current practices and policies related to repatriation, reception, reunification and reintegration of unaccompanied children and their families.
- Prior to repatriation, interdisciplinary teams—including social workers, counselors, health and mental health providers, attorneys and child advocates—should work to assess the history, needs, and best interests of each child, as well as the conditions to which they will return. Teams should make individualized plans for each child that include the child's views, with specific recommendations for repatriation and reintegration that can be shared with case managers in the child's country of origin and ensure continuity of care.

- DOS/PRM and USAID should administer reintegration programs to provide long-term, culturally and child-appropriate services to returning children and their families. Programs should encourage local governments to partner with community-based organizations with child welfare expertise and be designed to build local capacity. Reintegration services should include, as appropriate, food and housing assistance, mental health and medical care, family counseling, education and job skills training, legal assistance, specialized services for survivors of gender-based violence, and ongoing case management.
- The Administration should take steps to ensure that children on the move in Mexico and other countries of transit are not returned to their country of origin on the basis of their nationality or migration status absent full consideration of their need for protection. Consistent with international children's rights principles, children should only be returned when it has been deemed to be a sustainable solution in the best interests of the child and where adequate support and reintegration measures are in place to receive the child.

Promoting Family Unity and Preventing Unnecessary Family Separations

Background

The right of children to grow and be cared for by family is a shared value and principle of child protection in the United States and countries throughout the world.^{lxii} Many children, however, must leave their homes to escape threats to their lives and well-being and to seek safety from war, abuse, persecution, and other harms. In these journeys, some children are accompanied by family members. Other children make these dangerous journeys alone or may experience separation from parents and other loved ones. In many cases, such separations may result from restrictions on the ability of families at the U.S.-Mexico border to access humanitarian protection within the United States, leaving those families to conclude that children's only meaningful avenue to safety is to present alone at the border while their parents remain behind. Separated children face unique vulnerabilities during and after migration, and often must overcome significant trauma, safety risks, and complex procedures to reunify with family members and seek legal protection or face return to the harms they have fled.

The U.S. government can make important strides in upholding family unity and preventing unnecessary family separations while also improving orderly administration of border operations and immigration processes. Successful examples include the implementation of a binational mechanism with Mexico that facilitates safe family reunification in the United States for certain children in Mexican child welfare custody, and the Administration's expansion of lawful pathways through which unaccompanied children and families can pursue U.S. protection while still in their country of origin. Notwithstanding these critical efforts, more work remains to be done.

The federal government must reinvigorate its commitment to safely receiving children and families seeking protection and helping families to remain together. The Zero Tolerance Policy, which resulted in the separation of more than 4,500 children from their parents and legal guardians, highlights the devastation that follows when the U.S. government actively disregards—or in the case of the Zero Tolerance Policy, undermines—family unity. Conversely, the federal government's recent efforts to deploy licensed child welfare professionals in U.S. border facilities, develop cross-border mechanisms, and respond to urgent crises in Afghanistan and Ukraine illustrate the lifesaving potential of coordinated government efforts and public-private partnerships to support families and help children secure the protection they need. Practical opportunities exist to create immigration policies that center our nation's values for family life and family unity and that leverage lessons from the past to better protect families and reduce the risk of human trafficking and other harm.

In-country refugee processing and binational reunification mechanisms

The current Administration has implemented and expanded several policies that use in-country processing to facilitate

family reunification and access to humanitarian protection for children and families in need. This includes the expansion of the Central American Minors (CAM) Program, which allows eligible parents and legal guardians living in the United States to apply for refugee status or humanitarian parole for qualifying children in El Salvador, Guatemala, and Honduras while the child is still in their country of origin. The Administration has also established Safe Mobility Offices (SMOs) in the region through which families can be screened for U.S. protection and other legal pathways. Although SMOs do not currently screen unaccompanied children for CAM, they represent an important opportunity to improve access to information, assistance, and protection for this vulnerable population and to build the capacity of countries and service providers to support family unity while relieving pressure on border facilities and operations.

The federal government has also collaborated with Mexico to develop procedures for binational transfers of unaccompanied children in Mexican child welfare custody to the United States when it is determined to be in a child's best interests to reunify with family or apply for U.S. protection. These procedures facilitate access to protection for children and can improve safe reception, identification of appropriate placements for especially vulnerable children, and expeditious reunification of children with parents and family members in the United States. The U.S. government has supported the creation of similar cross-border mechanisms in other countries. To date, Guatemala and Mexico maintain a binational transfer process, and Panama is currently considering a similar mechanism. In addition to directly supporting family reunification, these collaborative models have proven beneficial in integrating assessment and prioritization of a child's best interests and family unity as part of U.S. immigration policies and decision making.

Lessons learned for protecting families in humanitarian crisis

The U.S. government's emergency responses to humanitarian crises in Afghanistan and Ukraine provide additional lessons learned regarding how to better support and improve outcomes for children and families. Following the fall of Kabul to the Taliban in 2021, the United States evacuated more than 75,000 Afghans, including at least 1,550 children who were unaccompanied by a parent or legal guardian. Initially, agency practices for identifying or tracking family relationships and caring for unaccompanied Afghan children were inconsistent and confusing, in large part because of the emergency nature of the evacuation. Many children separated from their families and placed with sponsors were not properly identified as Unaccompanied Afghan Minors (UAMs), leading to possible loss of benefits and delays in notification regarding the availability of a family reunification process when it became available. Although DOS and ORR subsequently developed more uniform procedures for managing reunification efforts, and many families have been reunited despite the obstacles and challenges posed by the Taliban, hundreds of children remain separated from family members who are still in Afghanistan or other countries. These prolonged separations have exacerbated the initial trauma many children experienced as they attempted to flee Afghanistan and their initial separation from family members, who were dispersed across several countries.

The U.S. government has also worked to support children and families fleeing the war in Ukraine through USCIS's creation of the Uniting for Ukraine program.^{lxii} The establishment of innovative, multidisciplinary service hubs in Europe represents another success. Civil society organizations, child protection authorities, and law enforcement co-located at these hubs, can help timely identify children traveling without parents or caregivers and streamline access to case management, legal services, psychosocial support, and family tracing and reunification.

While remaining mindful of the distinctions between various settings and contexts, these efforts can help to inform improvements in reception, screening, and care of children and families in the United States to better protect children, prevent unnecessary separations, and facilitate safe family reunification.^{lxiii}

Addressing Past Harms and Preventing Unnecessary Separations

In February 2021, the Administration announced family unity as a key priority and established a Family Reunification Task Force to help bring families separated under the prior Administration's Zero Tolerance Policy back together.^{lxiv} To date, the Administration has identified 4,656 children separated under Zero Tolerance and helped to reunify nearly 795

children with their parents, in addition to more than 2,400 children who were reunified before the Task Force's creation.^{lxv} The Task Force has also worked to connect children and families with behavioral health services and case management and provided humanitarian parole to more than 6,000 separated children, parents, and qualifying family members to assist them in reunifying in the United States.^{lxvi} Many families nevertheless continue to experience significant trauma and hardship, including as they apply for permanent legal protection, seek work and affordable housing, and confront limited access to medical and mental health services.

In December 2023, a federal court approved a final settlement in *Ms. L v. ICE*, a class-action lawsuit that challenged the government's practice of separating parents and children absent a finding of parental unfitness or danger to the child and that led to the end of the Zero Tolerance Policy.^{lxvii} Among other provisions, the final settlement includes important safeguards limiting the circumstances in which parent-child separations may be considered and establishing various requirements related to documentation, notice, communication among separated family members, and due process for challenging separations.^{lxviii} Additional provisions provide streamlined processes for eligible class members to apply for asylum and humanitarian protection, and to access limited social and legal services to support reunification.^{lxix} It is essential that the federal government fully implement the *Ms. L* settlement and issue additional policies and regulations to clarify the procedures by which the government will identify families, document family relationships, and prioritize family unity and children's best interests going forward. Further efforts are needed to ensure that families separated under Zero Tolerance can access mental health and social services for the longer term to help them heal from trauma and free legal assistance to apply for protections or relief for which they may be eligible.

The federal government must also act to protect family unity for unaccompanied children traveling to the United States with extended family caregivers, including those who have been the child's primary caregiver. By law, a child under 18 who lacks lawful immigration status and who has no parent or legal guardian to provide care and custody is defined as an "unaccompanied alien child,"^{lxx} including when that child arrives in the United States with family members other than parents or legal guardians. The government's compliance with this law is essential to ensuring children's full legal protections in the U.S. immigration system. Practical opportunities exist, however, to avoid prolonged separations from nonparent caregivers and other close family and to promote family unity by co-locating ORR specialists within CBP facilities who can evaluate an accompanying family member as a potential sponsor for the child, when in the child's best interests. Coordinated measures can provide for simultaneous release, when appropriate.

Recommendations

- The Administration must ensure the ability of unaccompanied and separated children and families to access U.S. territory to request protection, consistent with the TVPRA and international law. When seeking to establish orderly processes at the border, the Administration should consider the negative impact that arbitrary border closures and numerical caps have on child protection and family unity. In the past, such measures have increased the vulnerability of families—forcing them to wait in dangerous conditions and compelling many families to separate so that their children seek protection in the United States as unaccompanied children to escape harm. It is essential that all children and families facing harm be able to request protection and that unaccompanied children be exempted from any restrictive policies.
- ORR and DHS must ensure full compliance with the *Ms. L* settlement, including provisions related to future separations and those pertaining to streamlined processes by which eligible families may apply for humanitarian protection. DHS should urge Congress to pass legislation providing permanent legal protection to children, parents, and legal guardians separated under Zero Tolerance to ensure they will not be re-separated or returned to harm. In the interim, DHS should ensure the most protective measures possible, including by re-approving or extending humanitarian parole and parole in place, as needed. Simultaneously, ORR and DHS should express support for, and Congress should pass, legislation such as the Keep Families Together Act^{lxxi} that prohibits family separation for purposes of deterrence.

- DHS should implement robust, consistent, and publicly accessible policies directing consideration and prioritization of children’s best interests in any separation decisions; ensuring regular training of implementing staff; and providing for a rigorous review process.
- Prior to any CBP separation of a child from a parent or legal guardian due in whole or part to child safety concerns, a DHS Office of Health Security-hired child welfare professional should conduct, and CBP review, an assessment of relevant child welfare considerations, including whether such separation serves the best interests of the child.
- DHS, ORR, and DOS should collaborate to develop and make publicly available clear procedures for timely identifying unaccompanied and separated children during humanitarian emergencies, facilitating family tracing, and providing for reunification or relocation where in the child’s best interests. Such procedures should ensure that children will be referred to free legal orientation, screening, and legal representation.
- DHS and ORR should upgrade database systems and create robust mechanisms to track information about all separations of children from parents, legal guardians, and other family members, including the reasons for such separations.
- The U.S. government should ensure that each separated child and parent or legal guardian is represented by legal counsel. DHS and ORR must share information with legal counsel necessary to effectuate representation.
- In exceptional cases where an unaccompanied child is subject to separation, the U.S. government should ensure the child retains their designation as an “unaccompanied alien child” and that they receive any related protections for the duration of their legal case, even if later reunified with a parent or legal guardian.
- HHS, DHS, and DOJ should develop and implement policies to help preserve the unity of children and nonparent relatives with whom they are traveling when in the child’s best interests. Such procedures include considering coordinated release of the adult caregiver and child together if ORR determines the child would be best cared for by the adult family member. DHS should heavily weigh any recommendation by ORR in its determination to release the adult for the pendency of their proceedings, applying similar standards to when determining whether to detain a parent caring for a child. As part of these efforts, DHS and HHS should expand the Trusted Adult Relative Program to all border sectors. Through this program, HHS personnel co-locate at designated CBP facilities to, among other functions, commence the sponsorship vetting process immediately upon children’s arrival and placement in U.S. government custody, thereby minimizing taxpayer expense associated with government facility use while best ensuring children’s safe, timely sponsor placement. Policies should also make clear that a child determined to be an “unaccompanied alien child” consistent with the HSA and TVPRA should continue to receive legal and procedural protections for unaccompanied children for the duration of their cases.
- DOS must continue its efforts through the Office of the Coordinator for Afghan Relocation Efforts (CARE) to prioritize the reunification of children separated from their parents during the U.S. government’s relocation of Afghan allies in 2021. CARE should provide frequent, consistent, and transparent updates to children and families on the status of their applications for reunification. DHS, DOS, and HHS must continue to work cooperatively to streamline processing and coordinate all aspects of the reunification process, and should develop procedures for future emergency situations to minimize separation and facilitate reunification efforts.
- DHS, DOS, and ORR should support continued efforts to expand binational mechanisms through which unaccompanied children may be transferred to the United States or to a third country if child protection authorities determine that family reunification or access to protection in that country is in the child’s best interests. These mechanisms should ensure that children are connected with free legal services to inform them about their rights and relevant processes before any such transfers as well as legal representation after transfer to ensure screening and the opportunity to apply for any legal protections for which they are eligible. Consideration of children’s views and wishes should be assured in these processes.

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