




WOMEN'S
REFUGEE
COMMISSION

From Congregate to Community-Based Care: Strengthening Reunification and Support of Unaccompanied Children

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The Women's Refugee Commission (WRC) improves the lives and protects the rights of women, children, youth, and other people who are often overlooked, undervalued, and underserved in humanitarian responses to displacement and crises. We work in partnership with displaced communities to research their needs, identify solutions, and advocate for gender-transformative and sustained improvement in humanitarian, development, and displacement policy and practice. Since our founding in 1989, we have been a leading expert on the needs of refugee women, children, and youth and the policies that can protect and empower them.

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Introduction

In 2022, [43 million children were displaced worldwide](#); 25 million children were uprooted by conflict and violence and 8 million by natural disasters and climate change. Seventeen million of those children were refugees or asylum seekers. While a record number of children have been displaced globally, only a very small number of these children arrive in the United States. Some are designated as unaccompanied minors, signifying that they are separated (either permanently or temporarily) from their parents or legal guardians. The number of unaccompanied migrant children in Office of Refugee Resettlement (ORR) care has grown from approximately 4,700 children in 2003 to 119,000 children in 2023. Today, most children arriving in the United States are from Guatemala (45%), Honduras (25%), El Salvador (18%), and Mexico (4%).¹ The remaining 8 percent come from diverse countries of origin, including Afghanistan, Colombia, Cuba, Ecuador, Ethiopia, India, Nicaragua, Somalia, and Venezuela. Based on historical data, most unaccompanied children will show a legal right to stay in the United States.²

If apprehended in the United States without lawful immigration status, unaccompanied children³ are placed in the care and custody of ORR, under the US Department of Health and Human Services' Administration for Children and Families (ACF). ORR's Division of Unaccompanied Children's Services subcontracts with independent agencies—typically nonprofits, although for-profit companies also receive contracts and grant awards—to provide for the everyday needs of children until they can be reunited with family, transferred to federal foster care, or their legal cases are fully and exhaustively adjudicated. Meanwhile, children may pursue legal avenues to remain lawfully in the United States, such as asylum, special immigrant juvenile status, or other specialized visas. They must pursue these complex legal procedures while attempting to navigate daily life in a new country; many are recovering from often-multiple traumas.

In 2003, Congress charged ORR to care for unaccompanied children in federal custody. Since that time, the Women's Refugee Commission (WRC) has documented the conditions for children in ORR facilities, most notably in our 2009 report [Halfway Home: Unaccompanied Children in Immigration Custody](#). Advocates and researchers continue to document how federal immigration policies do not adequately meet the needs or protect the rights of unaccompanied children.⁴ Indeed, the provision of appropriate care has been a longstanding challenge for ORR.

Today, as the numbers of unaccompanied children (and families and adults) seeking protection in the US have increased, ORR has grown substantially, as has the size of facilities.⁵ ORR generally places children in large facilities that restrict children's movements. The domestic child welfare system terms these large settings as "congregate care," and resoundingly discourages their use, instead recognizing that kinship and family-like placements as better suited for children. Because these large settings have such a major impact on children's lives, ongoing external evaluation and assessment of ORR's programs is critical. To this end, WRC undertook a year-long study to examine family reunification policies and practices for unaccompanied children in federal custody. We focused on the barriers to their safe and timely placement with family members or non-relative sponsors and the opportunities and challenges of providing effective post-release services. Informed by our research, this report breaks down our findings into three sections:

1. *Care of unaccompanied children in large congregate-care facilities.* ORR increasingly relies on large congregate care facilities. Experts concur that congregate care is harmful to the health

and well-being of unaccompanied children, and that, independent of facility size, children will be better served by less time in care when safeguards are maintained. We recommend ways to monitor and limit protracted lengths of time in care and reduce reliance on large facilities

2. *Safe and timely release of unaccompanied children from federal custody.* We identify systemic barriers that needlessly delay the release and share recommendations for the safe and timely release of unaccompanied children from federal custody
3. *Strengthening post-release services for unaccompanied children.* The need for services to support children following release is critical and growing. We identify culturally sensitive, evidence-based, and trauma-informed approaches to working with young people following release.

From Congregate to Community-Based Care suggests a pathway for ORR to move away from congregate care and toward more appropriate practices of family reunification, foster care, and community-based placements.

Background

Within 72 hours of the apprehension of unaccompanied children, the Department of Homeland Security (DHS)—most commonly, Customs and Border Protection (CBP)—is generally required to transfer the children to the care and custody of ORR.⁶ ORR is charged with caring for children and reunifying them with an adult sponsor in the United States. The [Trafficking Victims Protection Reauthorization Act](#) of 2008 requires unaccompanied children to be held in what is considered the least restrictive setting.⁷

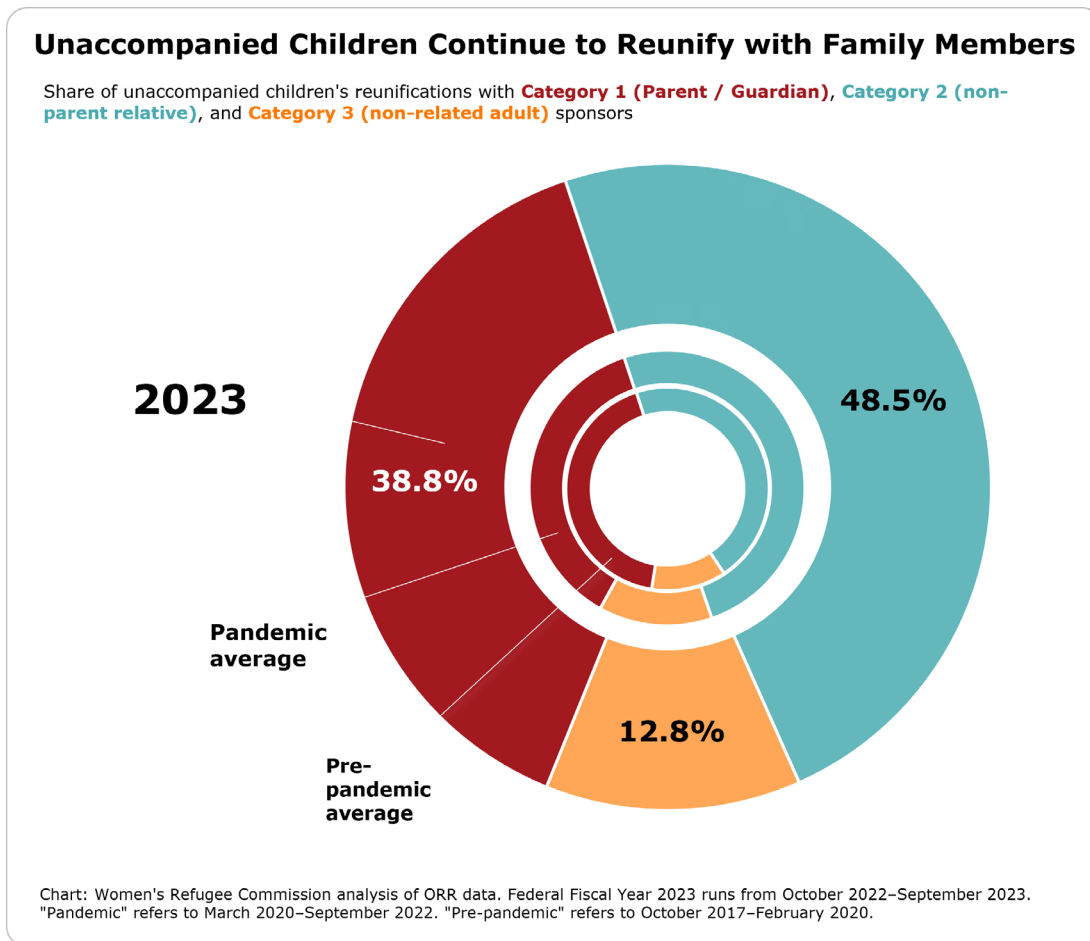
In practice, ORR places children in one of more than 280 subcontracted facilities, which are typically run by nongovernmental organizations and, in some cases, for-profit companies. Facility types vary, and include shelter facilities, staff-secure facilities, residential treatment centers, group homes, and foster care.⁸ The size of facilities ranges from 10 to 5,000 beds. ORR considers a child's age, gender, and specialized needs when making placements in facilities. ORR also makes out-of-network placements on an ad hoc basis for children with more complex needs.

A child remains in ORR care until a sponsor is approved for reunification by one of ORR's federal field specialists (FFS). While children are in ORR care, facility staff work to identify and vet family members or other sponsors in the United States who can care for the child while the child awaits their immigration proceedings. ORR refers to the family reunification process as "[case management.](#)" In some cases, potential sponsors will undergo home studies if required by law or deemed necessary to ensure the welfare of the child. ORR policy requires that home studies to be completed within 10 days of referral of the home study.

In 2022, there were [8,919 home studies](#) of potential sponsors. In fiscal year 2023,⁹ of the 113,495 children reunified with a sponsor, approximately 39 percent were released to a parent or legal guardian (Category 1 sponsor), 48 percent to an adult sibling, grandparent, or other immediate relative (Category 2 sponsor), and 13 percent to a nonrelative (Category 3 sponsor)¹⁰ (see Figure 1). Partial data from fiscal year 2024 indicates a higher share of children reunified with parents and guardians than at the height of the pandemic period (2020 to 2022), potentially signaling a return to historic norms.



Figure 1: Share of unaccompanied children's reunification with Category 1 (parent/guardian), Category 2 (non-parent relative), and Category 3 (non-related adult) sponsor.



In addition to rigorous vetting of sponsors, measures to ensure safe release of unaccompanied children involve the federal provision of post-release services (PRS). PRS is a referral-based program that connects children and their sponsors to a variety of community-based resources. PRS is available for children who are released to a non-relative sponsor (Category 3 sponsor), to those who are subject to a home study,¹¹ or to those "who could benefit from ongoing assistance from a social welfare agency."¹² There are three levels of PRS. Level 1 includes virtual service delivery, with the ability to elevate services to in-person delivery at the discretion of the provider. Level 2 involves a home visit 14 days post-referral and a minimum of one in-person contact at a sponsor's home every 90 calendar days, alongside comprehensive case management and referral to therapeutic support if needed.¹³ Level 3 includes intensive, in-person services on top of Level 2 supports.¹⁴ In practice, Level 1 services only extend beyond 30 days if the level is changed during the service delivery period; Level 2 and Level 3 services may continue for six months with further extensions as needed.¹⁵ In 2022, **55,960 children received post-release services**. ORR does not publish data disaggregated by the level of services. Although the backlog of post-release service requests is not public, WRC understands that it has reached more than 18,000 in past years.

Post-Release Services (PRS)

This report refers to PRS throughout. PRS are federally funded and administered referral programs that help reunified youth transition into family life in the United States. PRS includes preventive services and opportunities for intervention in situations of labor exploitation, health or mental health needs, or family stress. PRS range from 30 days to six months, and generally terminate after six months or when the young person turns 18 years old. Some states provide other services following reunification; these state-based services are not examined in this study.

Upon release from federal custody, unaccompanied children must navigate a complex emotional, legal, and social landscape. While learning to navigate a new culture and, often, learn a new language, young people adjust to life with family members, at times after prolonged separations. Owing to their uncertain legal status in the United States, many unaccompanied children have limited access to health care and social services—services that are critical for those recovering from traumas experienced in their home countries or in transit. Despite a clear legal right to attend public schools, as documented in our research, children may have difficulty accessing or be prevented from enrolling in school. In addition, many children confront considerable challenges in preparing their case in immigration court that they qualify for US protection. Although ORR provides legal support for unaccompanied children through a network of legal services providers, funding for these services has not met the need. Many children must secure and pay for private attorneys or navigate complicated legal processes without assistance. Within this complex context, PRS become a critical support for helping children connect with legal counsel and access other assistance critical to their safety and long-term health and well-being.

Methodology

This report is the culmination of a year-long study on the safe and timely release of unaccompanied children from ORR care and the landscape of services and support they navigate following release. Our project began as a collaboration with the Center for the Human Rights of Children at Loyola University in Chicago. While that collaboration evolved into two separate projects, we are grateful for the thought partnership with Loyola's researchers and believe our report complements their report (forthcoming).

For our report, principal investigator Dr. Lauren Heidbrink conducted 43 one-on-one interviews (45-90 minutes in length) with stakeholders within the ORR system. Stakeholders included facility staff, including program directors and administrators, family reunification specialists, mental health clinicians, caseworkers, and education specialists. In addition, she interviewed post-release service providers and administrators, attorneys, and child advocates. Interviewees worked in various sizes and diverse types of ORR facilities and programs, including shelter, staff-secure, and therapeutic facilities, and foster care. The vast majority of interviewees had several years of experience working in multiple facilities and in various roles, allowing them to speak to issues across facility types and changes over time. Taken together, facility staff worked in 22 states where ORR maintains permanent facilities.



Initial interviewees were recruited via snowball sampling, a non-probability sampling technique that begins with identifying potential research participants who then nominate additional interviewees. Additional interviewees were identified through practitioner conferences, regional stakeholder meetings, and professional connections. Interviews were recorded, transcribed, coded and, when available, triangulated with publicly available data. ORR did not permit WRC to speak with children in custody. The findings in this report are the most salient themes that emerged in our research. The study was approved by the California State University, Long Beach Institutional Research Board (#23126).

Section 1: Care of Unaccompanied Children in Large Congregate-Care Facilities

ORR provides for the everyday needs of unaccompanied children while in custody, including medical and mental health care, food, clothing, communication with family, and basic education. ORR states that it [incorporates child welfare values](#) and the principles and provisions established by the [Flores Agreement](#) of 1997, the [Trafficking Victims Protection Act](#) of 2000 and its reauthorization acts, the William Wilberforce [Trafficking Victims Protection Reauthorization Act](#) (TVPRA) of 2005 and 2008.

Yet our research shows that ORR has struggled to incorporate child-welfare principles and best practices within a model originally premised on detention. ORR's facilities vary considerably in size and in the freedoms afforded to children; most unaccompanied children end up in congregate care, a catch-all term for group homes and larger institutions that care for many children away from families.¹⁶ How and where unaccompanied children are placed in ORR custody can directly impact the quality of care they receive and the ability to reunite expeditiously with family.

Since its inception, ORR's Division of Unaccompanied Children's Services has relied significantly on congregate care for unaccompanied children. Many facilities in the ORR network are very large. The most recent [systemwide data](#) comes from 2019, when more than 90 percent of unaccompanied migrant children had been held in facilities with more than 50 beds. On average, an unaccompanied child spends around four weeks in ORR care.¹⁷ ORR leadership across presidential administrations has claimed to support a transition to smaller facilities,¹⁸ but little progress has been made.

ORR's mandate is to place unaccompanied children in the least restrictive setting in the best interests of the child and to work expeditiously toward the release of children to family members and appropriate sponsors. Large congregate care does not meet this mandate. Our primary findings include:

- ⇒ ORR's reliance on large-scale congregate care is contrary to child welfare best practices.
- ⇒ ORR care does not meet domestic child-welfare best practices for timely and supported reunifications.

Finding: ORR's reliance on congregate care for unaccompanied children is contrary to child welfare best practices.

Over the past decade, the domestic child-welfare system has drastically reduced the use of mass congregate settings and emphasized kinship settings and family-like placements that are better for

children's well-being.¹⁹ Research shows that congregate care is incompatible with the health and well-being of children.²⁰ Experts concur that "any amount of time that a young person spends in an institutional placement is too long."²¹

Yet over the same period, ORR has increased its reliance on large settings. In fact, ORR has a greater percentage of congregate care facilities in its provider network than states generally permit for domestic child-welfare placements.²² ORR's congregate care facilities are larger than their counterparts in the domestic child-welfare systems,²³ for which a "large" facility may house as few as 12 children. In 2021 and 2022, increases of arriving children post-pandemic led to tens of thousands of unaccompanied children being held in emergency intake sites (EISs) and influx care facilities (ICFs) in converted convention centers, stadiums, and military bases. Ranging from 1,000 to 5,000 beds, EISs and ICFs are unlicensed by state child welfare authorities and have looser operational standards.²⁴

Researchers document that young people experience ORR facilities as spaces of detention—restricted freedom to move around, limited physical activity, surveillance via video cameras and line of sight tactics, and recording their sleep patterns, conversations, and phone calls in their institutional files—which have been used against them in immigration court.²⁵ Unaccompanied children have incomplete and at times deliberately restricted access to information about their own cases—be it reunification with family, upcoming court dates, or impending deportation—and limited opportunities to meaningfully inform their future custodial arrangements.²⁶

Interviews with ORR stakeholders, including child psychologists, social workers, and family reunification specialists in ORR facilities, underscored the potential and actual harm that congregate care facilities cause children. Interviewees reported limited outdoor activity; restricted contact with parents and caregivers; and discriminatory treatment of LGBTQIA+,²⁷ Indigenous, and West African youth. Stakeholders described children simultaneously struggling to cope with the uncertainty of family reunification, procedural opacity, ongoing legal proceedings, and the possibility of deportation.

Ending congregate care, particularly large-scale facilities, for unaccompanied children will not happen overnight. To reduce ORR's growing reliance on congregate care and to ensure ORR is following research-informed best practices in child welfare, ORR must begin to cultivate new models of care. ORR should:

- create a public plan to transition to 100 percent small-scale programs with attention to the known challenges across contracting and grant-making, staffing limitations, restrictions on funding facility construction or renovation, outreach, recruitment of potential providers, program officer oversight, and organizational reporting;
- provide technical training assistance on navigating federal funding applications, operational requirements, and reporting to organizations interested in operating smaller-scale, community-based programs for youth; and
- engage outside child welfare experts, subject matter experts, and impacted community members to conduct site visits and provide consultation and recommendations to community-based organizations.



Finding: Timely and supported reunification with family is child-welfare best practice.

The domestic child welfare system has made two important changes in the past 20 years in instances where a child may potentially be removed from a home. The most important change is a widespread preference to maintain family integrity and to avoid the separation of a child from a caregiver. In the domestic system, the **threshold for removals** has been raised because removals actively harm children—even in situations with maltreatment or neglect—and because over the long term, children fare better in families than in out-of-home placements, measured across a range of functional domains.²⁸ As of 2020, **28 states** had incorporated a child-welfare guiding principle to avoid removals, and several other states had put a preference for family unity elsewhere in their statutes, covering around 65 percent of the US population.²⁹

Second, in cases where allegations against a child's caregiver are serious enough to warrant an interim urgent separation, the domestic child welfare system has dramatically sped up its **assessments of parental fitness**. In an emergency removal, the standard to remove a child is typically imminent danger to the child's life or health. In such circumstances, the judicial hearing takes place within 48 to 72 hours of the removal by statute.³⁰ This rapid response helps to minimize the time that children are separated from parents who are still able to care for them with additional support and reflects the overwhelming research showing that involuntary separation from a primary caregiver harms children, impairing their current and future functioning.³¹

"Active efforts to preserve and reunify families" is now the **gold standard** in the domestic child-welfare system.³² "Active efforts" include targeted services to families at risk of breakdown, such as 24-hour referrals, intensive direct services, and behavioral health services.³³ Intensive, short-term programs are then followed by longer-term, less intensive services that are both child- and family-directed and strengths based.³⁴

ORR's policies for unaccompanied children have never conformed to current family-unity best practice. ORR has justified its unique approach by pointing to unaccompanied children's undocumented legal status and their separation from parents because of migration. Unlike domestic child welfare agencies, ORR must establish that prospective sponsors are who they claim to be and, generally, that they have a pre-existing relationship with the child.³⁵ In addition, for 60 percent of unaccompanied children,³⁶ parents or guardians residing outside the United States have moral and legal right to make certain decisions on the child's behalf. Yet, ORR treats all families as "at-risk" and starts from a presumption that all sponsors are potentially unfit, which is unrelated to the distinct challenges in the care of unaccompanied children. (See Section 2 for a discussion of sponsor fitness.) As a social worker shared, "ORR is in the business of detention, not child welfare. Unaccompanied children are treated as immigrants first and children second."

Unaccompanied children do not benefit from the same "active efforts to preserve families" that children receive in the domestic child welfare system. Most reunited families receive almost none of the services or resources necessary for their well-being. ORR is not entirely to blame for the feeble service provision. ORR faces funding and other bureaucratic challenges to service delivery, while publicly declaring its ambition to deliver post-release services to 100 percent of unaccompanied children by October 2024.³⁷ As a longtime program director observed, "ORR is charged with functioning like a national child welfare agency that statutorily doesn't exist. They are building the bus as they drive it." As a result, unaccompanied children pay the ultimate price: they suffer prolonged separation from families while being held in detention, and their families rarely receive

needed services even after reunification.³⁸

Our research demonstrates that children should be reunified with family or sponsors as quickly as possible, while ensuring their safety and adequate support following release.³⁹ Accordingly, ORR should:

- regularly engage in external audits of ORR procedures and practices—including language within contracts, grants, and cooperative agreements—for alignment with established child-welfare best practices;
- incorporate a presumption of parental fitness and sponsor fitness for all family (Category 1 and Category 2) sponsors into its sponsor assessments unless shown otherwise, tailoring post-release services based on children’s needs; and
- expedite placements to families and provide more robust familial supports so that children are placed in safe and stable homes that will remain safe and stable.

Flawed terms misconstrue actual time in custody: ORR’s metrics on length of stay and length of care.

ORR aims to ensure the safe and timely release of unaccompanied children from its care. The agency releases data measuring two related but often conflated metrics: length of care and length of stay. Length of care (LOC) refers to a child’s total time in ORR care, calculated after children are reunified. LOC is an imperfect but mostly accurate statistic (as described below) when painting a picture of children in ORR care. In fiscal year 2023, unaccompanied children averaged 27 days in ORR care; importantly, this figure excludes any time held in CBP custody.

In contrast, the length-of-stay (LOS) metric measures the length of time children spend at a specific facility before they reunify with their families or sponsors, calculated for the population of children still in ORR care. LOS have fluctuated over the years in response to the numbers of children in ORR care, ORR’s internal policies and practices, and ORR’s general preparedness for seasonal influxes of migrating children. Critically, anytime a child is transferred to a different facility, the LOS clock restarts—but the child’s total time in ORR care does not get factored into the above LOC statistic until the child is ultimately released. To illustrate, a child may rotate through six different facilities, spending one month at each. The fact that the total time in care amounts to many months is only factored into ORR’s data upon release, while during care LOS would never appear to me more than 31 days.

LOS can also create adverse impacts to unaccompanied children and perverse incentives for facilities. LOS is often used as a proxy for fast reunifications—and how quickly facilities’ case managers complete the requisite paperwork for a reunification recommendation. In interviews, some facility directors believed that LOS may impact funding and bed space for facilities. That is, low LOS metrics would result in higher funding or bed space in subsequent years. Our interviews indicated that LOS disincentivizes facilities from caring for children who may have higher or more specialized needs. At the time of writing, programs are not obligated to take a child who is referred to their program. “It’s a lot of hot potato. Programs don’t want high-need kids because it increases length of stay. Those who are in most need of support confront delays in placement,” shared an advocate.



The real or perceived influence of LOS on facility funding may also lead to unnecessary transfers of children. Several family reunification specialists reported that, given the impact of LOS, some programs pre-emptively transfer children to facilities under the same umbrella organization or to other programs in an effort to maintain artificially low averages. Unnecessary or marginally appropriate transfers—inherently disruptive to children⁴⁰—may also occur just before weekly or monthly reporting thresholds, in an attempt to “game” facilities’ metrics. Moreover, research shows that time in care is considerably longer for children placed in more restrictive settings. Absent more nuanced data, we can speculate that some populations of children, such as children who speak languages other than Spanish or English or children with disabilities, may remain in care for longer periods. The adverse impacts of unnecessary transfers are likely to be unevenly distributed across all categories of children and to fall more heavily on these populations.

To ensure that all children have access to safe and timely release from custody, ORR should:

- report both the length of stay and length of care data and align metrics to median rather than average length of stay and length of care;
- increase the transparency and clarity of data by identifying specific populations of children who are subject to prolonged lengths of stay and multiple transfers;
- review procedures for children who present with acute behavioral health needs in order to ensure that service provision is appropriate to their long-term safety, stability, and well-being and aligned with best practices in behavioral health;
- for children in ORR care and represented by an attorney, provide advance notice to the attorney that a transfer is under consideration;
- implement formal reviews for the following populations of children: 1) children who have been transferred to a new facility from a current ORR facility; 2) children who have been transferred three or more times from any facility and 3) for the next five years, all children whose length of care is 45 days or more; and 4) thereafter, all children whose length of care is 30 days or more;
- align metrics to determine if some children are more likely to remain in ORR longer than others or are more likely to have prolonged stays (45+ days); and
- tailor specific services for unaccompanied children who are members of the above groups, with interventions as necessary.

Section 2: Safe and Timely Release from Federal Custody

ORR is required to release unaccompanied children in a safe and timely manner to parents, guardians, relatives, or individuals (known as sponsors) designated by parents. Federal Rules prioritize the category of sponsors with whom children should be placed.⁴¹ Except in limited circumstances, placement preference is with a parent or legal guardian, followed by other adult family members. This process, referred to within ORR as “sponsorship” or “family reunification,” is an administrative process whereby ORR evaluates the sponsor’s fitness, the safety and appropriateness of the placement, and the capacity of the sponsor to meet the child’s individualized needs. For the small number of children for whom no approved sponsor can be located, federal foster care, group homes, institutional placements, or other out-of-network placements are available. A small number of children in ORR care are returned to their home country, forcibly or voluntarily.

Our research identified several trends in factors that lead to delays in the safe and timely reunification of children with parents or other sponsors or transfer to foster care. Findings include:

- ⇒ Workforce shortages, ineffective or inadequate training, and burnout impact the quality of care in ORR facilities and may delay children’s release.
- ⇒ Inadequate language and interpretation access in facilities lead to misunderstandings and delays in a child’s reunification.
- ⇒ ORR increasingly uses out-of-network facilities on an ad hoc basis with limited monitoring for compliance with the *Flores* Settlement agreement.
- ⇒ Home studies are often biased by class, gender, disability, and culture—leading to longer resolution times for sponsors and prolonged stays in ORR care for children.
- ⇒ Significant barriers to accessing federal foster care, compelling needs for enhanced support of foster families, and calls for improved policies and support of LGBTQIA+ children in federal foster care.

Finding: Workforce shortages, ineffective or inadequate training, and burnout impact the quality of care in ORR facilities and may delay children’s release.

Across organizations—shelters, legal and social service organizations, and PRS programs—managers shared the challenges of ensuring a stable and trained workforce. Facility administrators described prioritizing language ability and experience in child welfare, but often receiving few or insufficiently qualified applicants. “With high levels of burnout and non-competitive salaries, we struggle to retain qualified employees,” noted a facility director. “We are in a perpetual loop of trying to hire and train new staff.” The retention challenges echo recent research on the [spillover effects of immigration policies](#) on social service and legal providers who experience secondary trauma, lack of sleep, persistent anxiety, and high levels of burnout.⁴² Case managers noted an increasing ratio of children to staff in their caseloads, which limits their ability to provide adequate and responsive care and leads to feelings of demoralization among staff.

Additionally, some new staff expressed feeling inadequately trained to work with unaccompanied



children. As one case manager shared, “We got barely any training in trauma-informed care or understanding the cultural, political, social situations in Central America. It really impaired my ability to do my job and support kids.” We note that ORR has substantial training requirements both pre-service and ongoing, as well as those listed in the Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children.⁴³ ORR’s requirements exist alongside organization-specific requirements—modules during onboarding, specific training, and continuing education for staff. Since the Standards and ORR policy already mandate the training that respondents reported to be effectively absent, ORR should look to improve the quality, sequencing, and tailoring of individual training requirements to improve training outcomes across staff roles.

Finally, senior facility staff and legal service providers reported that, when ORR policies change, there is significant room for improvement in how ORR disseminates new guidance and change-directives. When asked what part of ORR’s policy-change process could be improved, a legal service manager replied “All of it.” A facility director shared, “ORR often chooses the firehose method. This unfortunately adds to the feelings of frustration and burnout at the direct service levels.” At times, facility staff can feel “inundated with multiple major changes”—and they report that ORR’s own staff, including federal field specialists and project officers, are not always able to provide adequate clarification of new policies.

In response to these findings, we recommend that ORR and stakeholders should:

- substantially revise staff training and continuing education on key topics related to working cross-culturally, providing trauma-responsive care with clear understanding of what this means, and country conditions expertise, particularly for new staff;
- reduce burdens for staff retention on provider agencies by systematically identifying and supporting staff retention strategies;⁴⁴
- create space dedicated to stakeholders sharing and mutual support (based on discipline/professional role) across facilities in order to begin addressing high levels of burnout and feelings of isolation;
- collect data that includes and documents budgetary needs for Congressional appropriations that can ensure staff retention and appropriately and competitively compensate bicultural and bilingual staff with child welfare experience; and
- ensure that policy rollouts are supported – including with training, documentation, and digital infrastructure – that the goals of new policies are clearly articulated, and that ORR staff including FFSs and Program Officers can address questions and facilitate implementation.

Finding: Inadequate language and interpretation access in facilities lead to misunderstandings and delays in a child’s reunification.

ORR and its subcontractors are required by law “to take reasonable steps to provide meaningful access” to interpretation.⁴⁵ According to interviewees, however, children’s right to use their primary language and their access to interpreters are regularly ignored in ORR facilities. The primarily affected children are Indigenous children from Central America who are presumed to speak Spanish, but who often speak Maya languages. When asked why language lines are not used, facility staff describe the inconvenience of scheduling telephonic interpreters when they can “get by” in Spanish, that interpretation prolongs meetings with children amid high caseloads, and a lack of awareness of children’s language rights due to high staff turnover within facilities. Further, several respondents reported that children are dissuaded from using their native language with

other children and are even separated to different pods or during activities to ensure that staff can understand the conversations. Legal advocates said that children are misidentified as potentially trafficked and, conversely, not flagged as trafficked or vulnerable to trafficking because of mistakes in the intake and family reunification processes when an interpreter is not used. This lack of interpreter use is pervasive for children whose preferred language is neither Spanish nor English and leads to misunderstandings and delays in a child's reunification.

Our findings corroborate similar [findings by the American Bar Association](#). For children, the use of their own language relieves stress, provides cultural familiarity, and enhances communication. Limited language access negatively impacts the quality of children's care in ORR custody and likely lengthens the time that children spend apart from their families. Limited language access may also impede a child's ability to understand and exercise their legal rights. Moreover, language is commonly foundational to a child's identity. Finally, according to researchers, the deliberate separation of children from the same linguistic communities is a form of linguistic racism and violates Title VI of the US Civil Rights Act and the United Nations Declaration on the Rights of Indigenous Peoples.⁴⁶

In response, ORR should:

- expressly prohibit practices that prevent children from using their chosen language;
- improve language-access training for facility staff;
- provide translated signage in the dominant languages of the children in ORR facilities;
- emphasize in the Manual of Procedures that facility staff must ask children their first language and to use language access lines when completing all required intakes and use language-identification tools as necessary, including for languages without a written form;⁴⁷ and
- provide regular monitoring that ensures facilities provide consistent and meaningful access to interpretation for the children in their care.

Finding: ORR increasingly uses out-of-network facilities on an ad hoc basis with limited monitoring and compliance.

ORR increasingly relies on out-of-network placements for children with specialized needs, using ad hoc contracts for either entire facilities or bed space in facilities for individual children. Out-of-network facilities include medical, therapeutic, and secure placements; all are subject to state licensing requirements. Attorneys and advocates report that there is considerable variation in the quality of care and varying degrees of restrictiveness based on state licensure requirements. An attorney shared, "I've been both appalled and pleasantly surprised." One locked, secure facility in a Southern state was described as akin to a juvenile jail, with reportedly no Spanish-speaking staff to communicate with Spanish-speaking youth: "It is not fit for children, regardless of where they are from and has zero language or cultural competence to work with migrant youth."⁴⁸ In contrast, advocates shared positive feedback that some Afghan youth in particular have been placed in community-based programs in California that permit children to attend the local school and integrate into community life. "This is a game changer for kids to integrate into a new society and recover from the disruption that has characterized their life in the past months and years," an attorney reflected on the experiences of two of her young clients placed in out-of-network facilities.

There are several positive impacts to enlisting out-of-network placements on a limited basis. On one hand, out-of-network placements allow ORR to be responsive to the individualized needs of children in their care. These placements permit ORR to grow the types and locations of placements, with some



well-run programs transitioning into permanent ORR programs. On the other hand, interviewees expressed several concerns, including the very limited capacity for oversight by ORR and *Flores* monitors; limited communication between out-of-network programs, ORR FFSs, and ORR facility staff; restricted communication between out-of-network programs and attorneys, which imperils children's legal advocacy and immigration proceedings; and the ad hoc contracting of placements that curtail established, rigorous vetting processes for new programs. As a facility clinician said, "Some out-of-network placements are hastily arranged and kids fall through the cracks, while others [are] very purposeful and thoughtful, especially when child advocates and attorneys are involved."

Recently, ORR has designated one FFS to liaise with out-of-network placements to triage some of the communication challenges. ORR should:

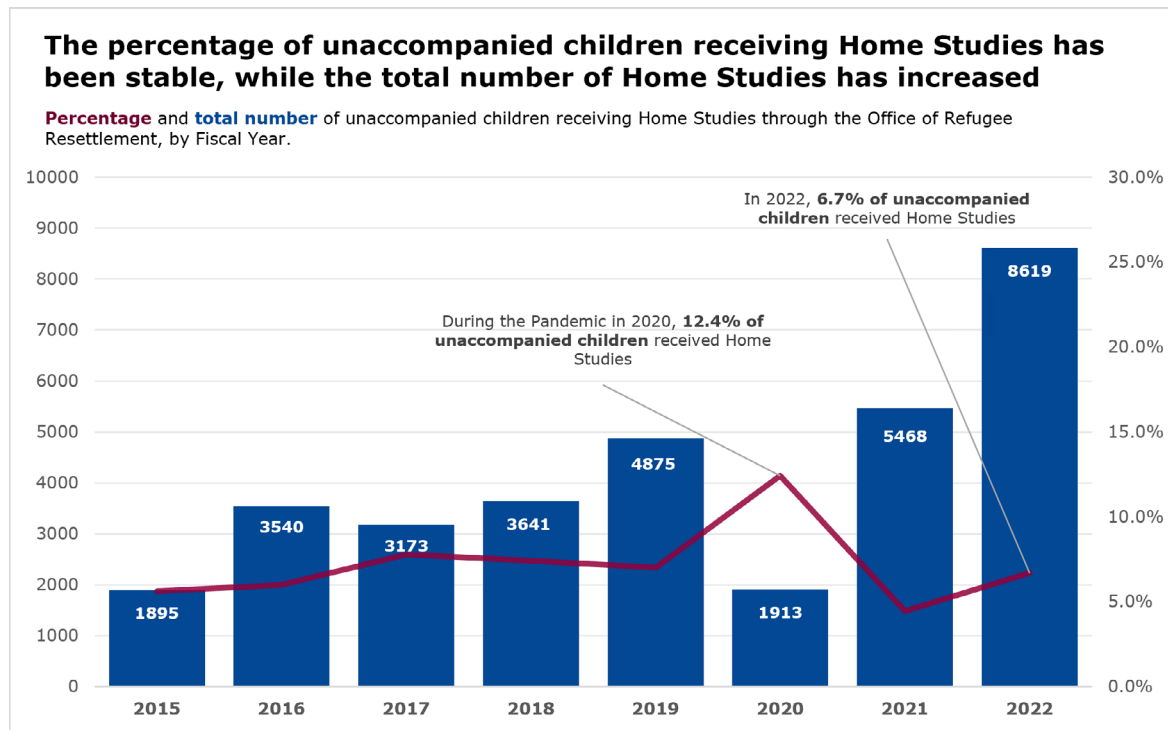
- increase opportunities within the ORR network for existing providers to meet specialized needs at their other facilities via grant-making and contracting;
- proactively develop a network of vetted, pre-screened facilities, enlisting clear and transparent criteria that are rooted in child welfare best practices in advance of pursuing out-of-network placements;
- ensure high quality of care, linguistic and cultural competence, clear communication expectations, children's regular and consistent access to legal counsel, and routine monitoring.

Finding: ORR home studies presume parents are unfit, and biased home-study assessments lead to prolonged stays in ORR care for children.

ORR **defines a home study** as "an in-depth investigation of the potential sponsor's ability to ensure the child's safety and well-being." Home studies are required by the Trafficking Victims Protection Reauthorization Act of 2008 for children who are victims of severe forms of trafficking, children with special needs, victims of physical and sexual abuse, or when a sponsor presents a risk of abuse, maltreatment, exploitation, or trafficking. Home studies can also be requested by ORR, facility staff, or a third-party reviewer on a case-by-case basis. ORR subcontracts with a home-study provider to conduct home visits and interviews with the sponsor and other household members as ORR requires. Assessments generally involve an in-person home visit, though some communication may be conducted telephonically. Following the evaluation of the caregiver and the caregiving environment, the home-study provider issues a recommendation to ORR in a written report, which is also reviewed by a third-party contractor (currently General Dynamics Information Technology), before the FFS makes a custodial determination.

While policies and laws vary by state, in most domestic child welfare contexts, home studies are only conducted of prospective adoptive parents, prospective foster parents, or when there are allegations of abuse, abandonment or neglect. Yet, interviewees shared that parents or immediate relatives of children in ORR care (Category 1 and 2 sponsors) are held to a different, unjust standard. Interviewees cited examples of home studies requested when a mother was HIV positive and did not have access to health insurance or when a parent had a single, decade-old driving under the influence conviction. Interviewees also reported that ORR required home studies for families living in "dangerous" or "red-lined" neighborhoods, contrary to what ORR has long told advocates.⁴⁹ Interviewees contended that these home-study examples, as well as mandatory home studies of parents of children with disabilities, are discordant with current social-welfare principles and would not occur in the domestic child-welfare system.

Figure 2: Percentage and total number of unaccompanied children receiving home studies through the Office of Refugee Resettlement by Fiscal Year (2015-2022).⁵⁰



Home study assessments can be simultaneously culturally biased and class biased. An individual with extensive experience in the home-study process shared that “Over and over again, there is this totally unrealistic expectation that a child either gets their own bedroom or doesn’t sleep with any family members of a different gender. It’s just not realistic for the working poor; it’s not even culturally aware. Families around the globe may sleep in the same room.” As a post-release provider reflected, “Parents who are already working multiple jobs are individually held accountable for the shortcomings of the American immigration system, health care system, and a lack of affordable childcare.”

Child welfare experts we interviewed observed that ORR’s family reunification policies are predicated on a presumption that parents of unaccompanied children are unfit.⁵¹ In the domestic child-welfare system, the customary presumption is suitability, absent an accusation of abuse, abandonment, or neglect. That is, parents or sponsors of unaccompanied children must pre-emptively prove they are able to meet the emotional and physical needs of a child, *even if their child has previously been in their continuous care*. To overcome this presumptive deficit, interviewees contended that ORR has bureaucratized assessments of parental fitness in a series of institutional processes that often are disorienting for children and parents, and at times insurmountable. For example, advocates described unannounced home visits, which are contrary to child welfare best practices; case workers inspecting refrigerators and cabinets to ensure there is food (even though a child remains in ORR care); and intrusive questions about income, personal backgrounds, and romantic relationships of the sponsor.

These examples demonstrate both ORR’s expansive role and the inconsistency of guidance and directive in practice. As an attorney critiqued, “ORR is playing judge, jury, appeals board, child psychologist, and social worker all at once.” FFSs use their judgement and determination of risk and child-welfare best practices to direct and approve home studies, but numerous informants complained of major inconsistency across FFSs. Informants consistently contend that ORR’s policies and home-study practices hold families to unattainable and culturally biased standards that



risk prolonging the detention of young people and separating children from their care providers. Interviewees pointed to limited child welfare expertise informing ORR policies and discretionary decisions of FFSs, lack of judicial oversight despite clear implications for parental custody of their children, and no transparent process for appeal of ORR's administrative decisions.

To ensure that ORR home studies are informed by research and do not perpetuate often classed, gendered, ableist, and culturally biased assessments, ORR should:

- engage with international child welfare experts to conduct a holistic assessment of home studies conducted over the last two fiscal years; to enlist evidence-based research to inform clear criteria required for requesting a home study; and to evaluate the criteria and processes of home studies with specific attention to hidden biases;
- partner with disability rights groups—such as the National Disability Rights Network—to evaluate the home-study instrument and organizational practices with particular attention to how ORR might better meet the needs of children with disabilities in detention;
- remove requirements for additional background checks and fingerprinting for home studies prompted by the presence of disability alone, and without other identified risk factors; and
- establish a clear and accessible administrative process for parents and legal guardians to appeal ORR custodial decisions.

Finding: There are considerable barriers to foster care, and foster families need enhanced support.

ORR may place children who have no viable family member or sponsor to care for them in the United States in federal foster care. Foster care provides children with a home-like setting where they receive supportive services, at times attend local public schools, and continue their legal proceedings. Foster care may afford a child the opportunity to feel safe, develop meaningful connections with trusted adults, and adapt to life in a new country. Especially when children are placed with culturally similar foster carers, research shows that children have a greater opportunity to thrive.⁵² Foster care is also an important mechanism for reducing the length of time children are detained.

ORR contracts with nonprofit organizations to manage federal foster care programs to meet the diverse needs of unaccompanied children. Programs include approximately 2,250 beds in short-term foster care, transitional foster care, long-term foster care, and therapeutic group homes.⁵³ Given the limited foster care bed space compared with well over 13,000 beds in congregate-care shelters, ORR prioritizes transitional or short-term foster care placements for children under 13 years old, sibling groups with one sibling under 13 years old, teens who are pregnant or parenting, and young people with specialized needs.

Interviewees noted several positive and consequential shifts in the federal foster care program under the Biden administration. For example, until recently, ORR reserved federal foster care for children whom legal service providers screened as potentially eligible for legal relief. In 2021, at the urging of advocates, ORR relaxed this internal requirement to ensure that all children might have access to the least restrictive placements as required by the TVPRA. The number of children in need, however, continues to outpace the available foster care placements, including transfers to the (much smaller) Unaccompanied Refugee Minors program. Interviewees commented that the Biden administration has made concerted efforts to diversify the ethno-racial identities, religious, and linguistic capacities of foster families who receive children. “The importance of having more Latinx foster families and families

that speak Spanish can't be overstated. Kids feel more comfortable, welcome, and understood. They feel like they have someone who can support and advocate for them," an advocate observed.

At the same time, several structural concerns persist, including:

- ⇒ *Lack of distinct policies and procedures designed for ORR youth in long-term foster care.* Long-term foster care providers are required to follow ORR policies and procedures that have been designed for congregate-care settings with relatively short stays, with some exceptions. At the same time, long-term foster care is by its very structure a less restrictive setting than a congregate facility—for example, children may attend local schools rather than in-house educational services. Consequently, long-term foster care providers often struggle to conform to a set of regulations and rules not designed for their programs and not necessarily in children's best interests.
- ⇒ *Insufficient attention to the specialized needs of LGBTQIA+ children in foster care.* Family reunification specialists and advocates alike expressed concerns for the appropriateness of many families receiving LGBTQIA+ children. As an attorney specializing in representing LGBTQIA+ children and youth explained, "Historically, organizations have relied on religious networks to identify foster families, but families may not understand or welcome the unique struggles and identities of LGBTQIA+ children. And if gender identity or sexual orientation is the basis of their legal claim, in my experience, children feel like they have to conceal who they are or are dissuaded from pursuing a viable legal claim. Either way, the kids lose."
- ⇒ *ORR limitations on attorney and foster care communications are detrimental to children.* Informants point to considerable variability in communication and collaboration across programs. "Sometimes we have a good working relationship and other times it is very contentious, often depending upon the program's leadership and the personality and discretion of the FFS," an attorney remarked. Several informants pointed to the persistent withholding or obfuscation of relevant information; others identified ORR policies (and conversely lack thereof) as the root of antagonism and miscommunication between case managers, attorneys, and foster families. An attorney illustrated this, saying, "I've had program directors tell me their hands are tied because of ORR's directives." She elaborated, "ORR directs foster programs to focus on reunification and not share information with us...that it would violate the children's confidentiality or that we are somehow working at cross-purposes. It comes from the top [ORR headquarters] and children pay the price." Especially for young children who may be unable or unwilling to discuss their past traumas, foster parents' observations are critical to supporting young people in receiving the services they need. "It is really a whole-team effort not only to be successful in their legal case but also socially in school and with family," another attorney reflected.
- ⇒ *Foster care families need greater support.* Informants described the multitude of challenges that confront foster families, including feeling unsupported, underappreciated, and inadequately compensated.⁵⁴ An attorney working with children in long-term foster care observed, "Many foster families are working poor and struggling to provide. They are already stressed and over-taxed, and then they either have to take off of work to take kids to doctors' appointments or court or get home from work at 5:00 and then have to take kids to appointments with lawyers. And then they are blamed if they miss an appointment. It's just too much and they burn out. They need more active support."

Taken together, there is a need for greater investment in federal foster care. A foster care director summed up: "I'm sympathetic to the scale of the problem, but ORR is moving in the wrong direction by investing billions in warehousing kids in EIS [emergency intake sites] and influx facilities and keeping them open."



To remove barriers to foster care and enhance support of foster families, we recommend:

- ORR and foster care programs should adopt an interdisciplinary, team-based approach to caring for unaccompanied children. Child advocates, immigration attorneys, and dependency attorneys are critical members of this team to ensure that a child can access legal protections in the United States. ORR should issue a summary document of the benefits of information sharing at the field level and with foster families; develop data-sharing agreements and toolkits; and provide advice for overcoming common communication challenges. All information sharing between these individuals must remain voluntary.
- ORR and foster care programs should provide regular training and education for foster care families, staff, and community agencies interacting with children with specialized needs and supports for unaccompanied children from their diverse backgrounds, including non-English speakers and LGBTQIA+ youth.⁵⁵ Failing to do so has enduring legal, social, and mental health consequences for young people.
- ORR should enlist child welfare experts to conduct a 360-evaluation of the federal foster care program. Experts can identify ways that ORR might draw from evidenced-based research and best practices in the domestic child-welfare system to better serve young people, to recruit and retain foster parents, and to ensure parity between the two systems.
- The Government Accountability Office (GAO) should conduct a cost analysis of the federal foster care program and the unaccompanied children's program. Together with robust program-related data, the Administration for Children and Families should make a compelling request to Congress for sustained, multi-year funding to develop the federal foster care program.



In initial placement decisions, geolocation is a best practice to expedite placements with sponsors.

Our interviewees unanimously agreed that geolocation is a best practice and should be adopted as ORR policy. That is, when a child is transferred from US CBP to ORR custody, efforts should be made to place them in an ORR facility in the geographical area where the child's family (specifically, Category 1 or Category 2 sponsors) is located, all else being equal.⁵⁶ For children who may not know where family members live, the potential sponsor's area code can serve as a proxy, given that most children arrive with a family member's phone number.

Geolocation is advantageous for several reasons. Perhaps most importantly, interviewees working with children in ORR care believed that, in general, children are released sooner when placed near their parent or family member. This means less time spent in care. A child's placement close to family facilitates communication with and support of the sponsor in completing the requisite paperwork, which can be cumbersome.

Second, visitation with potential sponsors can reduce the stress of children who spend protracted time in ORR care. This is especially important for children reunifying with parents or family members after prolonged separations. Family reunification specialists also report that observing the child with the potential sponsor can identify or alleviate safety concerns; if needed, specialists can more quickly turn to a more appropriate sponsor or placement.

Another benefit is that, with sufficient notice and support, geolocation allows legal service providers who have already prescreened children while in ORR care to continue to provide legal representation following release. This additionally alleviates the considerable financial and logistical burden on children to find legal representation in a new location.

Fifth, geolocation can aid with continuity for ORR service providers to "hand off" case information to area social service providers who provide key resources, such as information about state laws for securing health insurance and assistance with school enrollment.

Lastly, geolocating children close to family members relieves travel costs for ORR and logistical burdens of transportation arrangements for facility staff.



Section 3: Strengthening Services Following Reunification

After unaccompanied children leave ORR care, they arrive at the home of their family or nonrelative sponsors. For families that have been separated for years, supportive services can be critical during this readjustment process—bolstering the caregiver's ability to support a child and to secure needed services that are often difficult to access owing to legal status, limited English proficiency, and lack of health insurance. To assist in this transition, ORR contracts organizations to provide formal post-release services (PRS) to ensure the safety and well-being of children following reunification, to provide action planning with families regarding areas of concern, and to advocate on behalf of children with community-based providers and schools. Contractors include nonprofit organizations with robust experience in providing services for unaccompanied children but may also include others newer to the work. Many post-release contractors provide services across multiple states, some without having staff or offices located in the state.

The TVPRA mandates PRS for children with required home studies (described above), but services also can be requested by ORR or facility staff. For those with home studies, [PRS are provided](#) for the duration of their legal proceedings or until the child turns 18, whichever comes first. PRS currently operate via referrals in which a PRS case worker connects the child and sponsor to critical mental health, medical, legal, and educational resources in their local community via a series of phone calls, mailings, or emails.⁵⁷ For children without a home study, PRS are provided for variable periods: 30 days for children referred to Level 1, and six months for Level 2 and Level 3 referrals, with further extensions possible as needed. Depending on the need, in-person visits are conducted. ORR has seen considerable backlogs in post-release service requests. While data on the backlog is not public, WRC understands that it has reached more than 18,000 in past years.

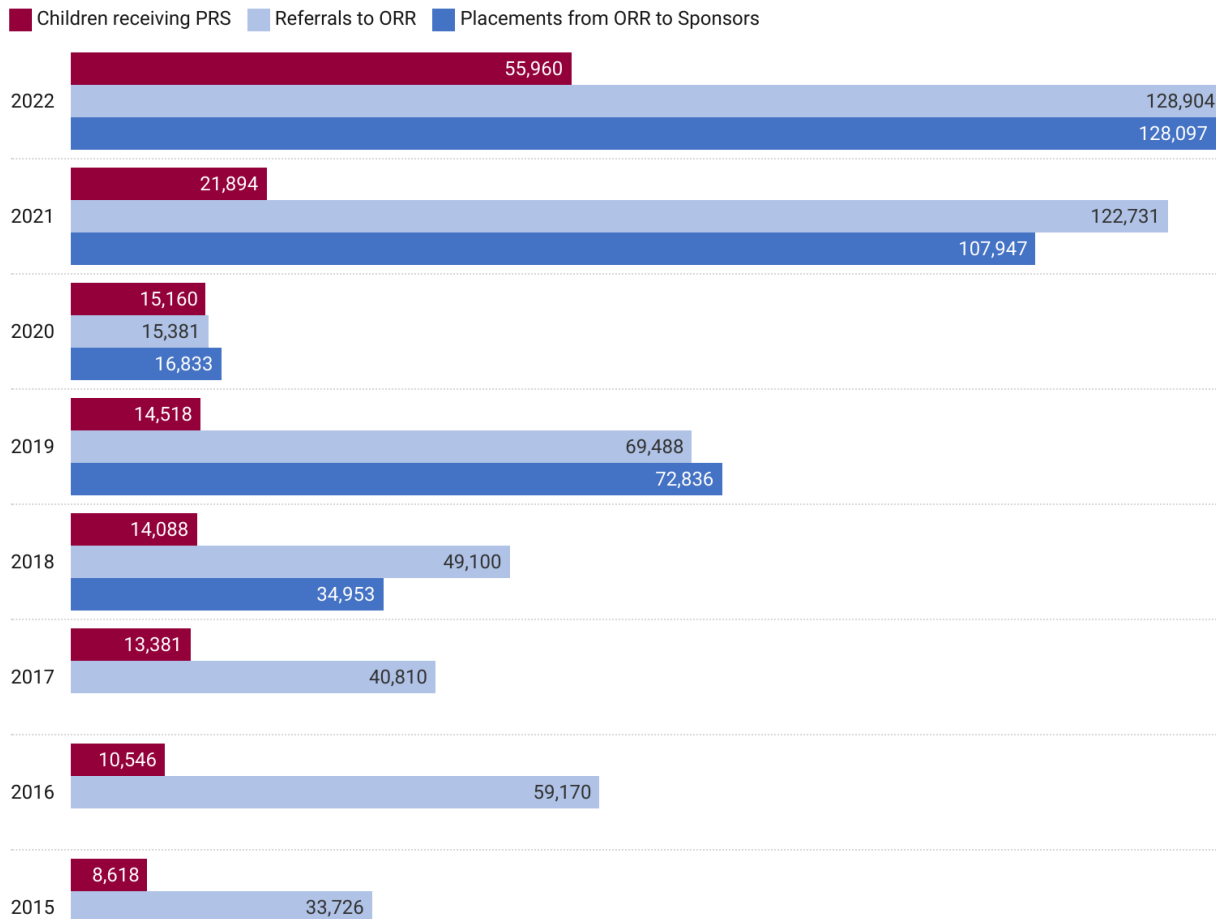
In addition to PRS providers, the Legal Orientation Program for Custodians of Unaccompanied Children (LOPC) provides legal orientations for adult caregivers of unaccompanied children in removal proceedings. LOPC providers explain the immigration process, the forms of legal relief available to children, and the rights and responsibilities of sponsors. Following a child's release, LOPC providers may also conduct legal screenings and referrals of children to pro bono, low-cost, and private immigration attorneys.

Children reunited with family or sponsors may also receive services apart from those delivered via PRS. When unaccompanied children have immigration lawyers, for example, those attorneys often serve as trusted adults and connect children to needed services and protections, which can enable swift and effective intervention when children find themselves in an exploitative or abusive situation. Yet children continue to fall through the cracks. Attorneys across the country reported being underfunded, understaffed, and unable to keep pace with the demand for legal representation. Although ORR provides significant funding to support legal representation, this support fails to reach all children released from ORR care.

Figure 3: Unaccompanied children receiving post-release services by Fiscal Year (2015-FY2022).⁵⁸

Growing numbers and growing proportions of unaccompanied children receive post-release services

Unaccompanied children receiving post-release services by Fiscal Year (Oct.-Sept.)



Note: Sponsor placement information only available starting in Fiscal Year 2018. For children with referrals, post-release services begin after a child is placed with family or with another sponsor. PRS may exceed annual placements or annual referrals due to a combination of factors.

Source: Women's Refugee Commission analysis of data from the Office of Refugee Resettlement • Created with Datawrapper

Stakeholders interviewed for this study, including PRS providers, affirmed the importance of localized services for children following release from ORR care and called for expanded, in-person services for all children. Community- and family-based settings with PRS are in the best interests of children because children are living in the least-restrictive environment. For ORR, service provision in these settings is more cost-effective than longer stays in ORR care. Primary findings related to strengthening support and expanding services for unaccompanied children following release include:

- ⇒ Post-release models based on referrals alone are ineffective in meeting the needs of unaccompanied children.
- ⇒ Unaccompanied children face pervasive barriers to school enrollment.
- ⇒ Unaccompanied children have limited access to health care and mental health services post release, hindering their well-being.



- ⇒ Universal representation is needed for all children, with specific attention to addressing workforce shortages and burnout, expanding legal screenings, and moving beyond referrals to direct representation of unaccompanied children.
- ⇒ The access to justice crisis in rural areas of the United States risks the long-term safety and well-being of unaccompanied children.
- ⇒ Children aging out of federal custody are in critical need of PRS.

Finding: Post-release models based on referrals alone are ineffective in meeting the needs of unaccompanied children.

Providers lamented that few resources and services are available to unaccompanied children following release, even for those who are recommended to receive PRS. Because PRS is a referral model in which participants are given information about local services rather than being provided them directly, services can be difficult to find. For example, in Houston, interviewees reported that many of their organizations are not accepting new cases because they have no more capacity. The result leaves many exasperated. Stakeholders identified a lack of leadership from ORR to maintain an up-to-date database of available services and a need for greater leadership from states, many of which have divested from mental health services, food assistance, and other social programs. As one stakeholder shared, “The flyers provided are out of date or organizations on the forms are maxed out; kids really need people who have relationships with a community of providers.” Another stakeholder said of herself and her colleagues, “We can’t keep twisting each others’ arms for services that don’t exist.”

For fiscal year 2023, [Congress allocated \\$750 million](#) to expand PRS, legal services, and child advocates for unaccompanied children. This is a critical step in ensuring children have access to legal representation and legal services following release from ORR care. These services likewise introduce trusted adults into the lives of young people who can ensure that children are safe and less susceptible to abuse or exploitation. Attorneys working with children remarked that the success of their young clients’ legal cases is contingent upon children’s safety, access to food, and access to needed mental health services and education. “If a child isn’t eating, [is] unhoused or unsafe, their more urgent needs must be met before we can proceed with the legal case,” an attorney said. In the absence of wraparound services, attorneys felt like the existing PRS model tasks them with multiple roles—attorney, therapist, and social worker. “This was not part of my legal training,” another attorney remarked. Even when social workers are incorporated into post-release legal services teams, models may be limited to bridging of services rather than direct service provision.

Local working groups of service providers show promise for enhanced sharing of best practices to better support children.

In Houston, Los Angeles, and New Jersey/New York, PRS providers have organized working groups that meet monthly to build community, share resources, and disseminate information to the diverse stakeholders working with youth post-release. Such working groups could be more systematically organized, coordinated, and scaled to other regions. Several interviewees expressed difficulty initially identifying others serving unaccompanied children in their community or that they “just stumbled into this network.” As one educator working with unaccompanied children in a public school shared, “Everything is shrouded in secrecy around ORR. It’s hard to find answers even to basic questions, or even to get basic information like vaccination records for a child.”

In response to these varied challenges in delivering effective post-release services, WRC recommends:

- **Congress should invest in post-release support for unaccompanied children and newcomer youth:** Congress should invest in expanded PRS for newly arriving migrant children and youth via appropriations to ORR and newcomer programs based in both communities and public schools. Following best practices in social work, PRS should be universally available and voluntary. Services should include an immediate, individualized needs assessment for the child, sponsor, and family (as relevant) following release. More robust newcomer programs in states and localities continue to fill a critical gap in services and provide a local safety net for newly arriving children.
- **ORR and PRS providers should innovate and diversify service-delivery models:** Fundamentally, PRS should operate as a prevention model and overlap with domestic child-welfare service provision. Delivery will differ by local context. In areas like Houston, where large numbers of unaccompanied children reside, for example, ORR can partner with local authorities to innovate diverse service delivery models that address the specialized needs of unaccompanied children. This might include [funding education-legal partnerships](#) whereby attorneys are co-located in schools to identify children in need of legal services and to provide direct services to children. Or, for example, medical-legal partnerships that facilitate attorneys collaborating with health care providers to assist unaccompanied children in accessing holistic services.⁵⁹ These efforts importantly provide another trusted adult for young people to access if their placements deteriorate or if they find themselves in unsafe or exploitative employment.
- **ORR should facilitate communication and collaboration between PRS providers:** With coordination support, low-cost efforts such as monthly post-release stakeholder meetings should be replicated in all regions of the United States. Integrating regional and especially subregional—metropolitan area—coordination into the job duties of ORR’s new regional coordinators is a promising starting place. ORR can also invest in enhanced sharing of best practices and experiences via conferences, webinars, or trainings for those serving young people post release. Proactively partnering with child welfare experts, university researchers, and subject matter experts can strengthen services provided to young people following release.⁶⁰

Finding: Unaccompanied children face pervasive barriers to school enrollment.

Plyler v Doe (1982) is a landmark US Supreme Court decision holding that states cannot deny students a free public education on account of their immigration status. For almost 40 years, *Plyler v Doe* has ensured equal access to education regardless of immigration status, yet increasingly anti-immigrant sentiment has attempted to encroach on the rights of children via state and local policies. Following release, some unaccompanied children become ensnared in these exclusionary policies when attempting to enroll in public schools. Other children are refused educational access due to limited understanding of legal rights among school administrative staff.⁶¹ A PRS case worker shared, “Many young people—even 14- and 15-year-olds—are turned away from schools, told they don’t have a social security number, or they don’t have a legal guardian to sign the required forms. Yet, the expectation from ORR and even immigration judges is that they attend school.”

An attorney added that, especially for sponsors who are not parents or guardians of the child (Category 2 and 3 sponsors),⁶² “It’s easy to blame the sponsor that they didn’t enroll kids or to blame the kid that they wanted to work instead of go to school. It’s much more complicated.” Indeed, many interviewees pointed to structural factors impeding young people’s lawful right to enroll in



school. These factors include lack of knowledge within school registrar offices for enrolling children without legal identification, requirements for legal custodial orders permitting sponsors to sign required school forms, health screenings, which are challenging and costly to access without health insurance, and vaccine records which sponsors and advocates report are difficult to secure from ORR. Other respondents noted that rural and racially homogenous school districts tend to present more unnecessary barriers to school enrollment for unaccompanied children.

Interviewees also expressed skepticism that the remote, regional model of PRS could match the needs of many unaccompanied children. A PRS provider shared that young people “need someone knowledgeable about the US to accompany and advocate for them when school administrators are unlawfully turning them away. There is only so much I can do over the phone.” For others, the multi-state PRS model further complicates access to schooling: “Services should be provided by local service providers who are knowledgeable of the nuances of state law and educational practices that may obstruct school enrollment, and who have up-to-date information regarding service availability.”

Service providers suggested that additional state guidance will help to eliminate many of the administrative barriers to enrollment for undocumented and unaccompanied children.⁶³ This includes state Boards of Education or state Attorneys General issuing state-based memos on the constitutional right of undocumented minors to attend public school and working to eliminate administrative barriers to enrollment so that undocumented, unaccompanied children can enroll and fully participate in their constitutional right to education. Others suggested that school districts with large immigrant populations continue to invest in newcomer centers, partner with subject matter experts and attorneys to provide in-service training to teachers and staff, and to create educational-legal partnerships to identify avenues for legal relief for students.

Finding: Unaccompanied children have limited access to health care and mental health services post release, hindering their well-being.

Within 24 hours of transfer to ORR custody, unaccompanied children undergo an initial intake assessment, which includes questions related to mental health and medication. An initial medical health screening (a physical) is conducted within 48 hours of transfer.⁶⁴ While in care, children have access to basic medical and mental health services. ORR facilities are required to provide these services, which may occur on-site or at another location. Payment for care is managed through a third party.⁶⁵ Following release, however, generally children do not have access to affordable health care or medication. Our research identified four principal factors shaping young people’s access to health care and mental health services.

- ⇒ *Gaps in medical and mental health case management can exacerbate lengths of stay in ORR care.* Most unaccompanied children only require regular preventative medical care following release from ORR care. Less commonly, they may require specialized treatment for known or newly diagnosed conditions. Particularly in states where undocumented children are ineligible for state-based health insurance, even basic access to mental health care and preventive medical care can be inaccessible.⁶⁶ Absent this support, the burden of the US public health-care system falls squarely on family or sponsors, and many find that access to free and low-cost health care is limited or they face wait times that extend for several months or even years. Meanwhile, children who cannot be medically cleared for release remain in care. As a case manager said, “It actually costs more to detain a child for a night at tax-payer expense than providing them with health insurance for a month. So, we’d rather detain kids than provide them health care? We’ve got it twisted.”

- ⇒ *Even in states with an expanded Children’s Health Insurance Program (CHIP), there are considerable and avoidable health-care gaps for children.* As a positive step, a growing number of states, such as California, Illinois, New Jersey, New York, among others, have attempted to fill the gap in care by establishing [state-financed health care coverage](#) to eligible children regardless of their legal status in the US. These programs typically use state funds to extend federal CHIP coverage. However, providers shared that there are often delays in applying for state-based health insurance for children released from federal care. Some delays result from a lack of communication between ORR, facility staff, and PRS providers on the timing of release and granting adequate access to necessary information to complete the application. Other delays result from PRS providers covering large geographic areas who lack familiarity with state-specific requirements and changes in CHIP procedures. Still others identified delays stemming from insufficient information provided to children without PRS about their eligibility and the application procedures, and the difficulty of parents or sponsors to obtain necessary forms or proof of income.⁶⁷ In addition, those who work within LOPC noted [sponsors’ persistent fear](#) that accessing public services, including expanded CHIP, might impact the sponsor’s and/or the child’s ability to remain in the country, a well-documented and enduring fear resulting from the Trump administration’s now-repealed Public Charge policy.⁶⁸
- ⇒ *Children have limited access to their ORR medical records.* Interviewees noted that upon release, children routinely are not provided copies of their initial medical health screening or vaccination records. The lack of records creates burdens that go beyond medical-care situations. For example, school enrollment typically requires medical evaluations and vaccination records. If children are released without documents, school enrollment is further delayed. Children’s safety and well-being are enhanced when family and sponsors are equipped with the needed documents, medical records, and resources to secure health care, mental health services, and school enrollment.
- ⇒ *Psychiatric medication protocols following release remain an area of concern.* Some unaccompanied children have confronted multiple traumas, whether in their home countries, en route to the United States, or while in US custody. Following release, young people face added stressors that include family reunification after prolonged separations, uncertainty for their futures, pressure and anxiety from the immigration system, and social factors such as acculturation stress and language acquisition. While in ORR care, some children are placed on psychiatric medication, and upon release, are typically provided with a 30-day supply of medication. A psychologist shared, “It’s really alarming how children are instructed to self-taper. Not only does it suggest that the need for medication has passed, which in most cases it hasn’t, but also fails to recognize that when children come off of these medications, whether correctly or not, symptoms can exacerbate.” An attorney said, “It’s medical malpractice. Tapering of medication, especially for minors, must be done under the supervision of an appropriate medical provider.” Given the above-mentioned lapses in access to health care, interviewees consistently identified that a 30-day supply of medication remains insufficient to ensure a child can re-initiate and ensure continuity of care.

To meet the medical and mental health needs of unaccompanied children, we recommend:

- For the 11 states and Washington, DC, that have expanded CHIP to unaccompanied children, ORR and Department of Health coordinators should establish protocols specifically for unaccompanied children so that their applications can be submitted once ORR has approved their placement with a sponsor to automate application processes. Protocols should include facility staff working closely with PRS providers to ensure that CHIP applications are submitted expeditiously where allowable, ideally within 24 hours of release.



- ORR and the Executive Office for Immigration Review (EOIR) should partner to expand the existing LOPC programs to include social service orientations, “open house” sessions, and direct assistance to adult caregivers navigating the health care system in their respective states.
- ORR should issue a directive to all facilities to provide physical copies of children’s initial medical health screening form and vaccination records and email digital copies to sponsors.
- ORR should conduct a study on the feasibility and cost of providing 90 days of health insurance to children with specialized health care needs in states without CHIP in order to expedite release while ensuring the health of children post-release.

Finding: All unaccompanied children should have legal representation.

Since the 1967 *In re Gault* case, young people have had a constitutional right to counsel during juvenile court proceedings. Yet unaccompanied children are not afforded this right in immigration proceedings. In fact, immigration is the only area of US law that does not distinguish children from adults with respect to the right to counsel.⁶⁹ Without any guarantee of counsel, children must present their cases and meet the same evidentiary and credibility standards as adults, even without an attorney. Access to counsel is consequential. [Analyses of EOIR data](#) reveal that 97 percent of children with legal representation appear at their court hearings, and children with representation are seven times more likely to be successful in their petitions for legal relief.

The TVPRA mandates that ORR provide unaccompanied children access to counsel to the greatest extent practicable, to represent them in legal proceedings or matters, and to protect them from mistreatment, exploitation, and trafficking.⁷⁰ In practice, ORR contracts 40+ legal service organizations to provide “Know Your Rights” (KYR) presentations and legal screenings to children held in federal custody. Following release from ORR care, unaccompanied children must navigate immigration removal proceedings and may be eligible for legal relief, yet a significant number of unaccompanied children will attend immigration court hearings without an attorney to protect their interests.⁷¹

Our research found unanimous agreement that unaccompanied children should have universal legal representation—representation for all children regardless of the likelihood of success in their legal cases.⁷² In addition, we found several challenges to the current practice:

- ⇒ *Legal service providers face workforce shortages and staff burnout.* Unaccompanied children’s immigration cases are complicated, and legal service organizations struggle to fill staff vacancies, both because of burnout and challenges of securing new hires licensed to practice in the states where children are ultimately seeking relief, given that forms of immigration relief such as Special Immigrant Juvenile status involve state courts. Attorney compensation for immigration removal defense lags compensation in comparable jobs, including at US Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE) attorneys, and public defenders. Hiring attorneys also described significant challenges of rapidly scaling up their services when ORR identifies an urgent need or when there is an increase in children released to their region from local shelters, for whom they are obligated to represent per pre-negotiated contracts. A supervising attorney shared, “We just can’t keep up without notice that ORR is shifting its geolocation practices.”
- ⇒ *Legal screenings in detention are critical but insufficient.* ORR’s contract mandates that children receive a legal screening within 10 days of arrival. These screenings are critical but limited, as many children may need more time to build trust with an unknown adult, particularly children with past traumas related to violence, sexual assault, abuse, and persecution based

on sexual or gender identity or other marginalized identities. An attorney shared, “Children are overwhelmed in detention. There is so much anxiety about their immediate situation and uncertainty for the future. Many children don’t know who to trust, who is the government, and who is really there to help them, so it is difficult to encourage them to open up about some of the most difficult experiences of their life.”

Attorneys consistently described challenges in establishing rapport while children remain detained. For example, LGBTQIA+ youth may not feel comfortable sharing their gender identity or sexual orientation to a stranger, even while their identity may be the basis of their legal claim to remain lawfully in the United States. Several advocates and attorneys observed that children would benefit from in-care KYR presentations that focus on their rights while in detention and a separate KYR presentation on their eligibility for legal relief post-release, rather than both rights and relief being covered during a single presentation. As the number of children in ORR care continues to significantly expand, its legal services subcontractors are compelled to shift their attorney capacity to the in-care services mandated under contract and by federal regulations.

⇒ *The post-release referral network is currently insufficient to meet the legal needs of unaccompanied children.* The largest challenge for ORR for legal representation is growing the capacity of legal services. Although ORR’s legal services network has more than 90 attorneys and paralegals working with children in non-detained settings, all providers we interviewed reported being unable to represent more children. “We are sending kids in circles,” reported one respondent. “It’s incredibly frustrating for children and their sponsors and for us especially because children’s futures literally depend upon their access to representation.” Legal service providers interviewed for this study shared that their own organizations have capacity to add one to two additional cases of unaccompanied children per month to their at-capacity caseloads.⁷³ Without a more robust network of legal organizations, the referrals given to unaccompanied children fail to connect those children with individuals and organizations that have capacity to assist them.

To strengthen protections for unaccompanied children and expand access to legal representation, we recommend:

- ORR should expand the universal representation model by investing in more competitive salaries for attorneys and legal staff who work with unaccompanied children.
- States should advance state legislation to address the need for legal aid for unaccompanied children. Legislation might include mandated legal representation and appropriation of funds to legal service organizations to provide representation or establishing public defense program for immigrants.⁷⁴
- President Biden should continue to request and Congress should approve robust funding for unaccompanied children’s services that can include direct legal representation and additional immigration judges for specialized children’s dockets staffed by adjudicators with specialized training in child-sensitive and trauma-informed practices.

Finding: The access to justice crisis in rural areas of the United States risks the long-term safety and well-being of unaccompanied children.

Rural destinations in states like Alabama, Louisiana, Georgia, and Oklahoma have seen a tremendous growth in the numbers of children released to family and sponsors.⁷⁵ Unaccompanied children who reunite with sponsors in these locations confront both legal and social-service deserts. Although some ORR-funded providers are contracted to provide services in these states, they still



lack meaningful legal services infrastructure. For example, in fiscal year 2015, 808 unaccompanied children were reunified in Alabama; in fiscal year 2023, 2,066 children were reunified in the state—a 250 percent increase. At present, no ORR-funded legal services organizations are headquartered in Alabama, and there are very few free or low-cost legal services organizations in the state. Legal services for unaccompanied children in Alabama come from out-of-state organizations. Oklahoma, which saw a four-fold increase in the number of unaccompanied children released in the state, is also without ORR-funded providers headquartered there.

Legal services providers based in other states attempt to bridge this gap, serving children remotely via telephone, mail, and Zoom. An attorney serving children six hours away across state lines shared, “It’s challenging enough to build an immigration case working with restrictive laws and across languages and cultures. Add working with often traumatized children and then remotely. There is very little opportunity to build rapport and trust critical to bringing an effective case.”

The Impact of the access to justice crisis goes beyond legal representation and access to systems of justice; lack of access to justice creates a crisis of exclusion and inequality that restricts access to the knowledge, information, and services necessary to become full participants in community life.⁷⁶ This includes PRS for unaccompanied children in the rural United States. Several PRS providers shared how they felt as if they were “failing” children in rural areas due to both an inability to provide service-referrals and an unfamiliarity with life in rural America. While publicly available data remains limited, interviewees indicate that many Indigenous children who originate from rural areas in their home country tend to reunify with family in areas with more agricultural industries, meaning these gaps may disproportionately affect them.⁷⁷

To begin to address the gaps in access to justice for immigrant children, we recommend:

- Quarterly, ORR should analyze the number of unaccompanied children released to sponsors by state and by county to identify what percentages of children are released to locations more than 50 miles and more than 100 miles from contracted legal and social service providers.
- Quarterly, ORR should analyze key demographic data, including key vulnerabilities, that are associated with reunification in areas without substantial in-person legal access. In areas identified as service deserts and for demographic groups with high likelihoods of reunification in service deserts, ORR should set priority areas for future programming, service needs (like Indigenous language support), and investment.
- Law schools must urgently address the well-documented shortage of attorneys in rural America.⁷⁸ This includes establishing immigration clinics within law schools that recognize and respond to the rural access to justice crisis in their efforts to train law student advocates, as well as innovative programs that aid children in traveling long distances to court.
- Philanthropic organizations and research foundations should invest in more research on the intersection of access to justice for immigrants generally and immigrant children specifically in rural areas and in the systematic training of health care professionals, social workers, and other professionals on immigration-related advocacy and issue spotting.

Finding: Children aging out of federal custody are in critical need of post-release services.

For unaccompanied children in federal custody, an **18th birthday or an age re-determination** brings a loss of specialized legal and custodial protections as well as material support such as housing and

social services. Upon turning 18 years old, a young person ages out of ORR custody and is transferred administratively to the custody of DHS, which pursuant to the TVPRA must consider the least restrictive setting for the youth, including alternatives to detention. Following the legal settlement in [Garcia Ramirez v. ICE](#), ICE may not automatically place a youth in adult detention unless DHS determines the child poses a flight risk or a danger to self or community. ORR guidance and federal appropriations directives require that ORR facilities provide a [post-18 plan](#) two weeks in advance of the child's 18th birthday, identifying an appropriate nonrestrictive placement and necessary support services. Interviewees shared that release on recognizance typically results because attorneys, child advocates, or, in some instances, facility staff have affirmatively approached the ICE Field Office Juvenile Coordinator (FOJC) in advance to enlist their discretion to approve a release on recognizance.

Facility staff and attorneys alike reported a noticeable improvement in how FOJC's responded to release on recognizance requests from the Trump to the Biden administrations. An attorney shared that in contrast to past efforts that required proactive engagement by attorneys of record and others to ensure consideration of the least restrictive placement for the child following release, under the Biden administration, children nearing age-out are often reunified with family immediately before or after aging out of ORR custody or approved for release on recognizance by ICE. However, facility staff have long had challenges in identifying suitable placements with sponsors for unaccompanied children who are older than 18 and are granted an release on recognizance due to general lack of shelter or other appropriate placements for adults in the US.

For other youths—often those without a child advocate or legal counsel—their 18th birthday may bring a transfer to adult immigration detention, a practice that respondents reported continues in certain sectors and states despite the guardrails of *Garcia Ramirez v. ICE*. ORR and ICE only provide notice to legal service providers when the child turning 18 has a signed representation agreement or when a child advocate has been appointed. Few children in ORR care fall into these categories. Attorneys and child advocates described being left scrambling to help children who age out. Even when notice is granted, attorneys in particular are forced to scramble due to the risk to the child posed by adult detention and the customary lack of a plan for the young person.

Further, when a young person ages out of ORR custody and if ICE grants release on recognizance, youth may confront restricted access to services and rights. While the TVPRA directs ORR to ensure legal representation to the greatest extent practicable for individuals who have been in its custody, after attaining the age of majority, new adults may be ineligible for foster care, PRS, and legal services restricted to minors. An advocate explained that youth are on their own “the minute—I mean, the minute—they turn 18.” Attorneys described rushing to provide legal services before a child turns 18 because their funding contracts restrict representation to minors only.

In response to the unique needs of children aging out of ORR custody, we recommend:

- The Biden administration and DHS should issue a memo urging the ICE Field Office Juvenile Coordinators to use a presumption of release on recognizance for unaccompanied minors turning 18 years old in youths' individualized assessment.
- The Biden administration should remove case management services from ICE and invest in post-18 case management services under the auspices of ORR. Services should be decoupled from immigration enforcement. Research documents that fear of immigration enforcement and fear of deportation are barriers to accessing community services, and decoupling is a best practice.⁷⁹ Placing much-needed services within ICE—which simultaneously is charged with removing unaccompanied youth from the United States—is a clear [conflict of interest](#) and not in the best interests of unaccompanied children.



- ORR's federal field specialists should improve transition planning and should provide contracted legal service providers with at least two weeks' notice when a child will likely age out of custody prior to being placed with a sponsor.
- Philanthropic organizations and HHS should consider relaxing age-based funding restrictions in order to provide greater continuity of care to unaccompanied youth aging out of ORR custody, including post-18 placements.

Conclusion and Stakeholder Recommendations

Twenty years since it was established, ORR's Division of Unaccompanied Children Services struggles amid ongoing resourcing and other challenges to provide care for a growing number of unaccompanied children. Safe and timely release and reunification of unaccompanied children, along with appropriate and robust support following reunification, are an essential part of ORR's commitment to incorporate child welfare values in its care and placement of unaccompanied children. There is an urgent need, but also an opportunity, for federal, state, and local governments, nongovernmental organizations, child welfare experts, school administrations and educators, researchers, and communities to collaboratively and creatively remake care systems that meet the diverse needs and respect the rights of unaccompanied children. WRC makes the following research-informed recommendations to reduce ORR's reliance on congregate care facilities, to remove barriers to the safe and timely release of unaccompanied children from federal custody, and to ensure that post-release services enlist localized, wrap-around service models.

Prolonged custody of unaccompanied children in congregate care

WRC's research identified several findings related to unaccompanied children's prolonged stays in inappropriate congregate care settings.

Finding: ORR's reliance on congregate care for unaccompanied children is contrary to child-welfare best practices.

- ORR should create a public plan to transition to 100 percent small-scale programs with attention to the known challenges across contracting and grant-making, staffing limitations, restrictions on funding facility construction or renovation, outreach, recruitment of potential providers, program officer oversight, and organizational reporting.
- ORR should provide technical training assistance on navigating federal funding applications, operational requirements, and reporting to organizations interested in operating smaller-scale, community-based programs for youth.
- ORR should engage outside child welfare experts, subject matter experts, and impacted community members to conduct site visits and provide consultation and recommendations to community-based organizations.

Finding: Timely and supported reunification with family is child-welfare best practice.

- ORR should regularly engage in external audits of ORR procedures and practices—including language within contracts, grants, and cooperative agreements—for alignment with established child-welfare best practices.

- ORR should incorporate a presumption of parental fitness and sponsor fitness for all family (Category 1 and Category 2) sponsors into its sponsor assessments unless shown otherwise, tailoring post-released services based on children's needs.
- ORR should expedite placements to families and provide more robust familial supports so that children are placed in safe and stable homes that will remain safe and stable.

Additional Finding: Flawed terms misconstrue actual time in custody.

- ORR should report both the length of stay and length of care data and align metrics to median rather than average length of stay and length of care.
- ORR should increase the transparency and clarity of data by identifying specific populations of children who are subject to prolonged lengths of stay and multiple transfers.
- ORR should review procedures for children who present with acute behavioral health needs, in order to ensure that service provision is appropriate to their long-term safety, stability, and well-being and aligned with best practices in behavioral health.
- ORR should provide advance notice to the child's attorney that a transfer is under consideration.
- ORR should implement formal reviews for the following populations of children: 1) children who have been transferred to a new facility from a current ORR facility; 2) children who have been transferred three or more times from any facility and 3) for the next five years, all children whose length of care is 45 days or more; and 4) thereafter, all children whose length of care is 30 days or more.
- ORR should align metrics to determine if some children are more likely to remain in ORR longer than others or are more likely to have prolonged stays (45+ days).
- ORR should tailor specific services for unaccompanied children who are members of the above groups, with interventions as necessary.

Safe and timely release of unaccompanied children from federal custody

WRC's research uncovered several trends in factors that lead to delays in the safe and timely release of children to parents, sponsors, or foster care. These delays needlessly prolong time in care and delay release and reunification.

Finding: Workforce shortages, ineffective or inadequate training, and burnout impact quality of care.

- ORR should substantially revise staff training and continuing education on key topics related to working cross-culturally, providing trauma-responsive care with clear understanding of what this means, and country conditions expertise, particularly for new staff.
- ORR should reduce burdens for staff retention on provider agencies by systematically identifying and supporting staff retention strategies.
- ORR and its subcontractors should create space dedicated to stakeholders sharing and mutual support (based on discipline/professional role) across facilities in order to begin addressing high levels of burnout and feelings of isolation.
- ORR should establish data collection that includes and documents budgetary needs for Congressional appropriations that can ensure staff retention and appropriately and competitively compensate bicultural and bilingual staff with child welfare experience.



Finding: Inadequate language and interpretation access in facilities leads to misunderstandings and delays in a child's reunification.

- ORR should expressly prohibit practices that prevent children from using their chosen language.
- ORR and its subcontractors should improve language-access training for facility staff.
- ORR and its subcontractors should provide translated signage in the dominant languages of the children in ORR facilities.
- ORR should emphasize in the Manual of Procedures that facility staff must ask children their first language and use language-access lines when completing all required intakes and use language-identification tools as necessary, including for languages without a written form.
- ORR should provide regular monitoring that ensures facilities provide consistent and meaningful access to interpretation for the children in their care.

Finding: ORR increasingly uses out-of-network facilities on an ad hoc basis with limited monitoring for compliance with the Flores Settlement agreement.

- ORR should increase opportunities within the ORR network for existing providers to meet specialized needs at their other facilities via grant-making and contracting.
- ORR should proactively develop a network of vetted, pre-screened facilities, enlisting clear and transparent criteria that are rooted in child welfare best practices in advance of pursuing out-of-network placements.
- ORR and its subcontractors should ensure high quality of care, linguistic and cultural competence, clear communication expectations, children's regular and consistent access to legal counsel, and routine monitoring.

Finding: ORR home studies presume parents are unfit, and biased home-study assessments lead to prolonged stays in ORR care for children.

- ORR should engage with international child welfare experts to conduct a holistic assessment of home studies conducted over the last two fiscal years; to enlist evidence-based research to inform clear criteria required for requesting a home study; and to evaluate the criteria and processes of home studies with specific attention to hidden biases.
- ORR should partner with disability rights groups—such as the National Disability Rights Network—to evaluate the home study instrument and organizational practices with particular attention to how ORR might better meet the needs of children with disabilities in detention.
- ORR should remove requirements for additional background checks and fingerprinting for home studies prompted by the presence of disability alone, and without other identified risk factors.
- ORR should establish a clear and accessible administrative process for parents and legal guardians to appeal ORR custodial decisions.

Finding: There are considerable barriers to foster care, and foster families need enhanced support.

- ORR should adopt an interdisciplinary, team-based approach to caring for unaccompanied children. ORR should issue a summary document of the benefits of information sharing at the field level and with foster families; develop data-sharing agreements and toolkits; and provide advice for overcoming common communication challenges.
- ORR and foster care programs should provide regular training and education for foster care

families, staff, and community agencies interacting with children with specialized needs and supports for unaccompanied children from their diverse backgrounds, including non-English speakers and LGBTQIA+ youth.

- ORR should enlist child welfare experts to conduct a 360-evaluation of the federal foster care program. Experts can identify ways that ORR might draw from evidenced-based research and best practices in the domestic child welfare system to better serve young people, to recruit and retain foster parents, and to ensure parity between the two systems.
- The Government Accountability Office (GAO) should conduct a cost-analysis of the federal foster care program and the unaccompanied children's program. Together with robust program-related data, the Administration for Children and Families should make a compelling request to Congress for sustained, multi-year funding to develop the federal foster care program.

Additional Finding: In initial placement decisions, geolocation is a best practice to expedite placements with sponsors.

- CBP and ORR should coordinate placement of unaccompanied children in facilities in the geographical area where the child's family (specifically, Category 1 or 2 sponsors) is located whenever possible.
- ORR should provide advance notice to legal service providers when geolocation practices are enlisted, modifying their contracts accordingly.

Strengthening services for unaccompanied children following reunification

Current PRS models are insufficient to meet the diverse needs of unaccompanied children. An ideal approach is to align PRS to a localized, wrap-around service model. With PRS and improved service coordination in communities of release, there can be swift and effective intervention when children find themselves in an exploitative or abusive situation.

Finding: Post-release models based on referrals alone are ineffective in meeting the needs of unaccompanied children.

- Congress should invest in expanded post-release services for newly arriving migrant children and youth via appropriations to ORR and newcomer programs based in both communities and public schools.
- ORR and PRS providers should innovate and diversify service-delivery models. This might include funding education–legal partnerships and medical–legal partnerships. Fundamentally PRS should operate as a prevention model and overlap with domestic child-welfare service provision.
- ORR should facilitate communication and collaboration between PRS providers. With coordination support, low-cost efforts such as monthly post-release stakeholder meetings should be replicated in all regions of the United States. ORR might also invest in enhanced sharing of best practices and experiences via conferences, webinars, or trainings for those serving young people post-release. Proactively partnering with child welfare experts, university researchers, and subject matter experts can strengthen services provided to young people following release.



Finding: Unaccompanied children face pervasive barriers to school enrollment.

- State Boards of Education should issue memos on the constitutional right of undocumented minors to attend public school and work to eliminate administrative barriers to enrollment for undocumented and unaccompanied children.
- School districts with large immigrant populations should continue to invest in newcomer centers, partner with subject matter experts and attorneys to provide in-service training to teachers and staff and create educational–legal partnerships to identify avenues for legal relief for students.

Finding: Unaccompanied children have limited access to health care and mental health services post-release, hindering their well-being.

- ORR and Department of Health coordinators should establish protocols where CHIP is accessible specifically for unaccompanied children so that their applications can be submitted once ORR has approved their placement with a sponsor in an effort to automate application processes.
- ORR and EOIR should partner to expand the existing LOPC programs to include social service orientations, “open house” sessions, and direct assistance to adult caregivers navigating the health care system in their respective states.
- ORR should issue a directive to all facilities to provide physical copies of children’s initial medical health screening form and vaccination records and email digital copies to sponsors.
- ORR should conduct a study on the feasibility and cost of providing 90 days of health insurance to children with specialized health care needs in states without CHIP in order to expedite release while ensuring the health of children post-release.

Finding: All unaccompanied children should have legal representation.

- ORR should expand the universal representation model by investing in more competitive salaries for attorneys and legal staff who work with unaccompanied children.
- States should advance state legislation to address the need for legal aid for unaccompanied children. Legislation might include mandated legal representation, appropriation of funds to legal service organizations to provide representation or establishing public defense program for immigrants.
- President Biden should continue to request and Congress should approve robust funding for unaccompanied children’s services, including for direct legal representation and additional immigration judges for specialized children’s dockets staffed by adjudicators with specialized training in child-sensitive and trauma-informed practices.

Finding: The access to justice crisis in rural areas of the United States risks the long-term safety and well-being of unaccompanied children.

- Quarterly, ORR should analyze the number of unaccompanied children released to sponsors by state and by county to identify what percentages of children are released to locations more than 50 miles and more than 100 miles from contracted legal and social service providers.
- Quarterly, ORR should analyze key demographic data, including key vulnerabilities, that are associated with reunification in areas without substantial in-person legal access. In areas identified as service deserts and for demographic groups with high likelihoods of reunification



in service deserts, ORR should set priority areas for future programming, service needs (like Indigenous language support), and investment.

- Law schools must urgently address the well-documented shortage of attorneys in rural America. This includes establishing immigration clinics within law schools that recognize and respond to the rural access to justice crisis in their efforts to train law student advocates, as well as innovative programs that aid children in traveling long distances to court.
- Philanthropic organizations and research foundations should invest in more research on the intersection of access to justice for immigrants generally and immigrant children specifically in rural areas and in the systematic training of health care professionals, social workers, and other professionals on immigration-related advocacy and issue spotting.

Finding: Children aging out of federal custody are in critical need of post-release services.

- The Biden administration and DHS should issue a memo urging ICE Field Office Juvenile Coordinators to use a presumption of release on recognizance for unaccompanied minors turning 18 years old in youths' individualized assessments.
- The Biden administration should remove case management services from ICE and invest in post-18 case management services under the auspices of ORR. Services should be decoupled from immigration enforcement.
- ORR's federal field specialists should improve transition planning and should provide contracted legal service providers with at least two weeks' notice when a child will likely age out of custody prior to being placed with a sponsor.
- Philanthropic organizations and HHS should consider relaxing age-based funding restrictions in order to provide greater continuity of care to unaccompanied youth aging out of ORR custody, including post-18 placements.



Acronyms and Abbreviations

ACF	Administration for Children and Families
CBP	US Customs and Border Protection
CHIP	Children's Health Insurance Program
DHS	US Department of Homeland Security
EIS	Emergency intake site
EOIR	Executive Office for Immigration Review
FFS	ORR federal field specialist
FOJC	Field Office Juvenile Coordinator
HHS	US Department of Health and Human Services
ICE	Immigration and Customs Enforcement
ICF	Influx care facility
KYR	Know Your Rights
LOPC	Legal Orientation Program for Custodians of Unaccompanied Children
LOC	Length of care metric
LOS	Length of stay metric
ORR	Office of Refugee Resettlement
PRS	Post-release services
TVPRA	Trafficking Victims Protection Reauthorization Act
USCIS	US Citizenship and Immigration Services
WRC	Women's Refugee Commission

Endnotes

- 1 Figures are for the previous five federal fiscal years (FY2019 to FY2023) calculated based on referrals to ORR.
- 2 “Unaccompanied Children at the Border: Stakeholder Perspectives on the Way Forward,” U.S. House of Representatives Committee on Homeland Security Subcommittee on Border Security, Facilitation, and Operations, 117th Congress, April 27, 2021 (testimony of Aaron Reichlin-Melnick).
- 3 Children traveling without an accompanying adult are designated to be “unaccompanied” or rendered “unaccompanied” due to a family separation for placement into HHS custody. Customs and Border Protection typically makes such determinations during border encounters. In a few cases, children may be rendered “unaccompanied” due to ICE apprehensions of adults in the interior of the United States.
- 4 O. Byrne, *Unaccompanied Children in the United States. A Literature Review* (New York: Vera Institute of Justice, 2008). E. Ryo, and R. Humphrey, “Children in Custody: A Study of Detained Migrant Children in the United States,” *UCLA L. Rev.*, 68, 136 (2021). See also, L. H. Zayas et al., “Charting directions for research on immigrant children affected by undocumented status.” *Hispanic Journal of Behavioral Sciences*, 39(4), 412-435 (2017).
- 5 ORR, “Facts and Data” (n.d.), <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>. ORR, “Fact Sheet: Unaccompanied Children Program” (n.d.), <https://www.hhs.gov/sites/default/files/uac-program-fact-sheet.pdf>.
- 6 Unaccompanied children from contiguous countries do not receive the same protections under the Trafficking Victims Protection Act of 2008 (P.L. 110-457). In practice, this means that most unaccompanied Mexican children are quickly repatriated.
- 7 See Trafficking Victims Protection Reauthorization Act of 2008, P.L. 110-457 (2008). <https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf>.
- 8 In the past, ORR has also operated secure facilities, defined as “the most restrictive placement option for UC [unaccompanied children] who pose a danger to self or others or has been charged with a criminal offense.” As of publication there are no secure facilities within ORR’s network. Advocates, including WRC, have urged ORR not to open new secure facilities. See “410.1001 Secure facility” in ORR’s “Foundational Rule,” <https://www.federalregister.gov/documents/2024/04/30/2024-08329/unaccompanied-children-program-foundational-rule>
- 9 The federal government’s fiscal year is 12 months beginning October 1 and ending September 30 of the following year.
- 10 ORR defines a “Category 1” sponsor as a parent or legal guardian; “Category 2” sponsor as a sibling, grandparent, or other immediate relative; and “Category 3” sponsor as other sponsor, such as distant relatives and unrelated adult individuals, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. For fiscal year 2022 data, see <https://www.hhs.gov/programs/social-services/unaccompanied-children/index.html>.
- 11 For children whose home studies are mandated by the TVPRA, services continue until the child turns 18 or the date on which a child’s immigration case is completed (“terminated”). This differs from discretionary PRS. In practice, the backlogs in immigration court are so great that only voluntary departure or a final order of removal would end services before a child’s 18th birthday; even these outcomes are uncommon before an unaccompanied child turns 18, so for children with mandated home studies, PRS continues until they turn 18 years old. See *ORR Unaccompanied Children Program Policy Guide 6.6*, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-6>.
- 12 *ORR Unaccompanied Children Program Policy Guide*, “Section 6,” in UC MAP (Washington, DC: ORR, 2023), <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-6>; TVPRA, 8 USC 1232(c)(3)(B).
- 13 Level 2 PRS requires monthly contact but this may be virtual when it falls between the 90-day in-person requirements. In practice, when safety and well-being concerns are absent, home visits are



- required in the first month, the third month (90 days) and the sixth month (180 days) when services end.
- 14 *ORR Unaccompanied Children Program Policy Guide*, "Section 6.2: PRS Service Provision Policy," in UC MAP (Washington, DC: ORR, 2023), <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-6#6.2>.
 - 15 We thank an anonymous reviewer for this point.
 - 16 Although congregate care is defined by the Department of Health and Human Services to include group homes with custody of as few as 7 to 12 children, in the ORR context, congregate care typically refers to "a licensed or approved childcare facility operated by a public or private agency and providing 24-hour care and/or treatment typically for 12 or more children who require separation from their own homes or a group living experience." ORR's facilities, however, tend to be much larger than 12 beds. See US Department of Health and Human Services, *A national look at the use of congregate care in child welfare* (Washington, DC, 2015), https://www.acf.hhs.gov/sites/default/files/documents/cb/cbcongregatecare_brief.pdf.
 - 17 This refers to the average lengths of care as of publication and the preceding federal fiscal years. We note that the highest annual average was the outlier year of 2020—120 days—when the Trump administration largely prevented unaccompanied children from entering the United States in contravention of the law. The lowest recorded length of stay is 30 days, in fiscal 2022. ORR, "Facts and Data" (n.d.), <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.
 - 18 See most recently the discussion of community-based care in the ORR proposed "Foundational Rule," <https://www.federalregister.gov/documents/2023/10/04/2023-21168/unaccompanied-children-program-foundational-rule>.
 - 19 For example, the Family First Prevention Services Act of 2018 codified that children should be placed in the least restrictive setting appropriate to their needs, prioritizing family and small-group care. Family First Prevention Services Act, Public Law (P.L.) 115-123, <https://www.acf.hhs.gov/cb/title-iv-e-prevention-program#:~:text=The%20Family%20First%20Prevention%20Services,candidates%20for%20foster%20care%2C%20pregnant>.
 - 20 E. Castañeda, et al., "Symptoms of PTSD and depression among Central American immigrant youth," *Trauma Care*, 1(2), 99-118 (2021), <https://doi.org/10.3390/traumacare1020010>. See also N. Desai et al., *Child Welfare & Unaccompanied Children in Federal Immigration Custody: A Data and Research Based Guide for Federal Policymakers* (Washington, DC: National Center for Youth Law, December 2019), p. 9, <https://youthlaw.org/sites/default/files/attachments/2022-02/Briefing-Child-Welfare-Unaccompanied-Children-in-Federal-Immigration-Custody-A-Data-Research-Based-Guide-for-Federal-Policy-Makers.pdf>.
 - 21 Casey Family Programs, "What are the outcomes for youth placed in group and institutional settings?" (2022), p. 1, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-6#6.2>. See also Chapin Hall and Chadwick Center, "Using Evidence to Accelerate the Safe and Effective Reduction of Congregate Care for Youth Involved with Child Welfare" (2016), https://www.chapinhall.org/wp-content/uploads/effective_reduction_of_congregate_care_0.pdf. For a compilation of youth experiences in domestic child welfare, including the importance of eliminating institutional placements, see S. Fathallah and S. Sullivan, *Away from Home: Youth Experiences of Institutional Placements in Foster Care* (2021), <https://bettercarenetwork.org/sites/default/files/2021-09/Away%20From%20Home%20-%20Report.pdf>.
 - 22 The Family First Preventive Services Act limits states' use of federal funds to place children in congregate care settings and provides financial incentives to promote the use of kinship care and family-foster care.
 - 23 Desai et al. 2019, p. 9., supra note 20.
 - 24 N. Desai, D. de Gramont, and A. Miller, *Unregulated & Unsafe: The Use of Emergency Intake Sites to Detain Immigrant Children* (June 2021). See also, M. Statz and L. Heidbrink, "Unintended trauma: The role of public health policy in the detention of migrant children," *The Lancet Regional Health—Americas* (2021).
 - 25 L. Heidbrink, *Migrant youth, transnational families, and the state: Care and contested interests*

- (University of Pennsylvania Press, 2014). E. Ruehs-Navarro, *Unaccompanied: The Plight of Immigrant Youth at the Border* (Vol. 11) (NYU Press, (2022). S. J. Terrio, *Whose child am I?: Unaccompanied, undocumented children in US immigration custody* (Univ of California Press, 2015).
- 26 C. Galli, "The ambivalent US context of reception and the dichotomous legal consciousness of unaccompanied minors" *Social Problems*, 67(4), 763-781 (2020).
 - 27 Lesbian, gay, bisexual, transgender, queer and/or questioning, intersex, asexual/aromantic/agender.
 - 28 E. Sugrue, *Evidence Base for Avoiding Separation in Child Welfare Practice* (St. Paul, Minnesota: Alia Innovations: 2019), https://www.ncsc.org/_data/assets/pdf_file/0031/18985/alia-research-brief.pdf.
 - 29 Child Welfare Information Gateway, *Determining the Best Interests of the Child* (Dec. 2023) <https://www.childwelfare.gov/resources/determining-best-interests-child/>.
 - 30 States define this period in their individual statutes. See V. Sankaran and C. Church, "Easy Come, Easy Go: The Plight of Children who Spend Less than Thirty Days in Foster Care," *University of Pennsylvania Journal of Law and Social Change* (207), 207-37 (2017), <https://scholarship.law.upenn.edu/jlasc/vol19/iss3/2>. See also P. Chill, "Burden of Proof Begone: The Pernicious Effect of Emergency Removal in Child Protective Proceedings," *Family Court Review* 540 (2004), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1886506.
 - 31 Separations to out-of-home placements have shown "little to no measurable benefit in terms of cognitive or language outcomes, academic achievement, mental or behavioral health, or suicide risk...[and] may cause additional harm by increasing their risk of juvenile and adult criminal behavior, increased risk of Reactive Attachment Disorder, and increased risk of early mortality" See E. Sugrue (supra note 28).
 - 32 Casey Family Programs, *How can child welfare systems apply the principles of the Indian Child Welfare Act as the "gold standard" for all children?* (April 2022), <https://www.casey.org/icwa-gold-standard/>.
 - 33 The Family First Prevention Services Act of 2018 has helped to propel the ongoing realignment toward preventative services in lieu of child removals. See also Annie E. Casey Foundation, *Putting Family First: Developing an Evidence-Based Child Welfare Preventative Practice Model* (Annie E. Casey Foundation, 2020), <https://assets.aecf.org/m/resourcedoc/aecf-puttingfamilyfirst-2020.pdf>.
 - 34 L. E. D'Aunno, S. Boel-Studt, and M. J. Landsman, "Evidence-Based Elements of Child Welfare In-Home Services," *Journal of Family Strengths* 14(1) (2014), <https://digitalcommons.library.tmc.edu/jfs/vol14/iss1/3>.
 - 35 J. Dorrett, "Case Management for Unaccompanied Children" USCRI Backgrounder (U.S. Committee for Refugees and Immigrants, 2021), <https://refugees.org/wp-content/uploads/2021/10/USCRI-Case-Mgmt-10-2021.pdf>. The ORR Policy Guide discusses sponsorship by adults without a preexisting relationship to the youth in section 2.2.4. <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>.
 - 36 This figure is based on the percentages of unaccompanied children reunified with Category 2a, 2b, and 3 sponsors; that is, to a non-parent or legal guardian. Across all data to date (October 2017 to December 2023), 60.7% of children reunified with an adult other than a parent or legal guardian. In FY2023, the figure was 55.4%.
 - 37 ORR Response to Finding IV(A), in United States Senate, Committee on Homeland Security and Governmental Affairs, Minority Staff Report (2022). Federal Care of Unaccompanied Children: Minors Remain Vulnerable to Trafficking and Abuse, pp. 47-48. [https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/Federal%20Care%20of%20Unaccompanied%20Alien%20Children%20Report%20\(FINAL\).pdf](https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/Federal%20Care%20of%20Unaccompanied%20Alien%20Children%20Report%20(FINAL).pdf).
 - 38 Post-release services continue to be referral services rather than brokerage or intensive case management services. Most commonly, sponsors are provided with a list of local (or less than local) service providers for unaccompanied children's needs. See B. L. Grace and B. Roth. (2021).

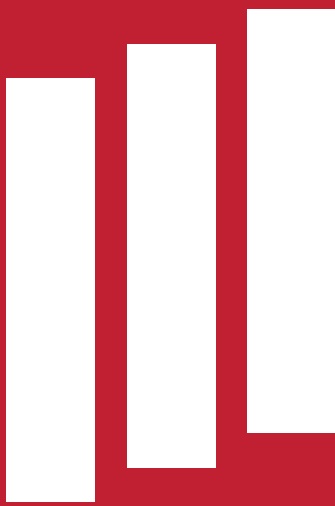


- "Bureaucratic neglect: the paradoxical mistreatment of unaccompanied migrant children in the US immigration system." *Journal of Ethnic and Migration Studies*, 47(15), 3455-3472. See also B. Roth and B. L. Grace, "Falling through the cracks: The paradox of post-release services for unaccompanied child migrants," *Children and Youth Services Review* 58, 244-252 (2015), <https://www.sciencedirect.com/science/article/abs/pii/S0190740915300773>.
- 39 Safe release of the unaccompanied children has drawn renewed attention due to child labor exploitation. The risk factors for child labor are largely structural, and recent cases have impacted children from socially marginalized populations with multiple intersecting vulnerabilities, such as undocumented status, limited proficiency in English and Spanish, and income poverty. Beyond rigorous vetting of sponsors, safe release involves preventive services, swift and effective intervention when a child finds themselves in an exploitative labor situation, and improved service coordination in communities of release. See Women's Refugee Commission et al., *Building Comprehensive Services and Supports for Unaccompanied Children in Light of the Child Labor Crisis* (2023), <https://www.womensrefugeecommission.org/research-resources/building-comprehensive-services-and-supports-for-unaccompanied-children-in-light-of-the-child-labor-crisis>.
- 40 Unnecessary transfers may impact a child's legal cases if the child is working with an attorney and is transferred elsewhere, as well as resulting from a nexus with state laws that impacts a child's ability to obtain Special Immigrant Juvenile status.
- 41 ORR Foundational Rule 89 FR 34384, April 30, 2024, <https://www.federalregister.gov/documents/2024/04/30/2024-08329/unaccompanied-children-program-foundational-rule>.
- 42 S. L. Canizales, "Caught in the Dagnet: How Punitive Immigration Laws Harm Immigrant Community Helpers," *Contexts*, 22(1), 38-43 (2023). <https://journals.sagepub.com/doi/abs/10.1177/15365042221142832>.
- 43 The Interim Final Rule containing the Standards is <https://www.federalregister.gov/documents/2014/12/24/2014-29984/standards-to-prevent-detect-and-respond-to-sexual-abuse-and-sexual-harassment-involving>. Pertinent required training topics in the Standards, as communicated to providers, include the following: "How to communicate effectively and professionally with unaccompanied children, including unaccompanied children who are lesbian, gay, bisexual, transgender, questioning, or intersex"; "Cultural sensitivity toward diverse understanding of acceptable and unacceptable sexual behavior and appropriate terms and concepts to use when discussing sex, sexual abuse, sexual harassment, and inappropriate sexual behavior with a culturally diverse population"; "Sensitivity regarding trauma commonly experienced by unaccompanied children"; "Knowledge of existing resources for unaccompanied children inside and outside the care provider facility, such as trauma-informed treatment, counseling, and legal advocacy for victims"; and "General cultural competency and sensitivity to the culture and age of unaccompanied children."
- 44 One reviewer suggested that ORR return to its COVID-era practice of allowing staff retention bonuses within its contracts, and that providers are able to develop salary and benefit practices that compete with federal standards, as provider staff cannot currently match the salaries and benefits provided by either ORR or its main internal staffing contractor General Dynamics Information Technology.
- 45 Title III of the Americans with Disabilities Act, <https://www.govinfo.gov/content/pkg/FR-2000-08-16/pdf/00-20938.pdf>. Title VI of the Civil Rights Act of 1964 requires federally funded programs to provide equal access to individuals with limited English proficiency, 42 U.S.C. § 2000d; 45 C.F.R. § 80.
- 46 Article 13 of United Nations Declaration on the Rights of Indigenous People (2007) establishes that "States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means."
- 47 One reviewer suggested a map-based or geographic method, in which a child identifies towns or locations near their hometown to ascertain the spoken language or regional dialect, and

- resources for a child to signal when they hear their language aloud.
- 48 Advocates identified the facility as a replacement for ORR's secure facility Shiloh Treatment Center in Texas. See: D. Engber, "The Shiloh Scandal is even worse than it seems," *Slate* (August 10, 2018), <https://slate.com/technology/2018/08/immigrant-children-abuse-drugged-shiloh-treatment-center.html>.
- 49 While ORR has not publicly issued a formal "redlining" policy, facility staff, advocates and attorneys in Houston and Chicago indicated that some primarily Mexican and Central American communities are redlined, meaning that all sponsors are subject to mandatory home studies given ORR suspicions that traffickers who live in these same neighborhoods (as indicated by zip code) are attempting to sponsor children. ORR has generally held that it requires increased vetting—not limited to home studies—for potential child-welfare concerns due to placement location only for short durations and usually connected to ongoing investigations.
- 50 ORR, "Facts and Data" (n.d.), <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.
- 51 For additional discussion, see L. Heidbrink, "Assessing parental fitness and care for unaccompanied children," *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 3(4), 37-52 (2017), <https://www.rsffournal.org/content/rsfjss/3/4/37.full.pdf>.
- 52 J. Rip et al., "Perspectives of unaccompanied refugee children, their foster carers and guardians on placement success: Which factors predict multi-informant discrepancies?" *Children and Youth Services Review*, 128(106), 1-14 (2021), <https://www.sciencedirect.com/science/article/pii/S0190740921001821>.
- 53 Figures refer to online beds as of early March 2024. As of publication, ORR reports that it has significantly more funded beds not currently online, including more than 1,700 additional beds in transitional foster care and nearly 700 additional beds in long-term foster care.
- 54 It is important to note that foster care payments are not intended as income for the caregiver but as financial support to cover the costs of a child's food, accommodations, and personal needs. This is especially acute for undocumented children who do not have access to federal benefits such as food or cash assistance given their tentative immigration status.
- 55 T. M. Crea et al., "Unaccompanied immigrant children in long term foster care: Identifying needs and best practices from a child welfare perspective," *Children and Youth Services Review*, 92, 56-64 (2018).
- 56 We note that the ORR Policy Guide 1.2.1 has an extensive list of factors for determining the initial placement of an unaccompanied child. See <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-1/>.
- 57 Level 1 PRS are remote services, whereas Level 2 PRS involve an initial in-person meeting. According to ORR policy, PRS case workers maintain a caseload of 1:25 up to 1:40.
- 58 ORR, "Facts and Data" (n.d.), <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.
- 59 See L. Pineda and B. Punsky, "Mental health as the cornerstone of effective medical-legal partnerships for asylum-seekers: The Terra Firma model," *Psychological Trauma: Theory, Research, Practice, and Policy* (2022), DOI: 10.1037/tra0001343.
- 60 A reviewer noted that the current PRS model has generated resentment among some local service providers who are expected to do unfunded work to support children released from federal government custody. This challenge may be especially acute for smaller, ethnic, or affinity-based organizations that provide substantial cultural and linguistic support for reunified children.
- 61 J. Sugarman, *Recent Immigrant Children: A profile of New Arrivals to U.S. Schools* (Washington, DC: Migration Policy Institute, 2023), <https://www.migrationpolicy.org/research/recent-immigrant-children>. See also Z. Booi et al., *Ensuring every undocumented student succeeds* (Georgetown Law. Georgetown Law Human Rights Institute Fact-Finding Project, 2016), <https://www.womensrefugeecommission.org/wp-content/uploads/2020/04/Public-Education-for-Undocumented-Children.pdf>.
- 62 A reviewer noted that youth non-enrollment in school may be held against Category 2 and 3 sponsors for future sponsorships of unaccompanied children.



- 63 Federal guidance exists from the US Department of Education's Office of Civil Rights. See "Protecting Access to Education for Unaccompanied Children," June 2023, <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-unaccompanied-children-202306.pdf>.
- 64 AORR Unaccompanied Children Program Policy Guide, "Section 3.4.9: Provider Reimbursement," in UC MAP (Washington, DC: ORR, 2023), <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-3>.
- 65 A reviewer noted that the existing system of third-party payment is cumbersome for both child and service provider. For the ORR policy, see: <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-3>.
- 66 S. Misra et al., "Systematic review of former unaccompanied immigrant minors' access to healthcare services in the United States," *Journal of Public Health*, 1-13 (2021).
- 67 Findings from our study echo the American Academy of Pediatrics recent research on the barriers to access of mental health and medical care for unaccompanied children nationally. See J. Breier and K. Fredricks, *A Path to Meeting the Medical and Mental Health Needs of Unaccompanied Children in U.S. Communities* (Washington, DC: Migration Policy Institute, 2023), <https://www.migrationpolicy.org/research/medical-mental-health-needs-unaccompanied-children>.
- 68 W. Duncan and S. Horton, "Serious challenges and potential solutions for immigrant health during COVID-19." *Health Affairs Forefront*. DOI: 10.1377/hblog20200416.887086 (2020), <https://www.healthaffairs.org/content/forefront/serious-challenges-and-potential-solutions-immigrant-health-during-covid-19>.
- 69 Unaccompanied children may have limited control over their own appearance in court. An in absentia order of removal is the most common way in which an unaccompanied child is ordered removed—even as most children will have a legal right to remain—and 13,000 unaccompanied children were ordered removed in absentia in 2022 and 2023. See https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Policy/No_Fair_Day_Children_in_Immigration_Court_White_Paper.pdf.
- 70 William Wilberforce Trafficking Victim Protection Act § 235(a)(5)(D), § 235 (c)(5) (2008).
- 71 Unaccompanied children appear before the Department of Justice at hearings of the Executive Office of Immigration Review (EOIR) and may appear at hearings before US Citizenship and Immigration Services for asylum cases as well as state-level cases to enable access to Special Immigrant Juvenile visas.
- 72 Universal representation also includes representation regardless of carveouts such as juvenile adjudication histories.
- 73 Typically a full-time immigration attorney will have an annual caseload of around 40 cases, although this varies considerably depending on the complexity of the cases.
- 74 For guidance on how to provide state-based legal aid to unaccompanied children, see: <https://www.ncsl.org/immigration/legal-aid-for-unaccompanied-children-in-the-us-illegally>.
- 75 L. R. Pruitt et al., "Legal deserts: A multi-state perspective on rural access to justice." *Harvard Law & Policy Review*, 13, 15 (2018). See also E. Ryo and R. Humphrey, "Beyond Legal Deserts: Access to Counsel for Immigrants Facing Removal" *NCL Rev.*, 101, 787 (2022).
- 76 M. Statz, R. Friday, and J. Bredeson, "They Had Access, But They Didn't Get Justice": Why Prevailing Access to Justice Initiatives Fail Rural Americans." *Geo. J. on Poverty L. & Pol'y*, 28, 321 (2020).
- 77 L. Heidbrink, *Migranthood: Youth in a new era of deportation* (Palo Alto, CA: Stanford University Press, 2020).
- 78 D. M. Conway, "Legal Deserts: a Multi-State Perspective on Rural Access to Justice" *Harvard Law & Policy Review*, 13, 15 (2018).
- 79 W. L. Duncan and L. Vazquez, "'I don't feel that we are a burden': Latinx immigrants and deservingness during the COVID-19 pandemic," *Social Science & Medicine*, 333, 116125 (2023). See also, H. Castañeda et al. "Immigration as a social determinant of health," *Annual review of public health*, 36, 375-392 (2015).



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