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Unaccompanied Alien Children: An Overview

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Summary

The number of unaccompanied alien children (UAC, unaccompanied children) apprehended at the Southwest border between U.S. ports of entry while attempting to enter the United States without authorization has increased substantially in recent years: from 16,067 in FY2011 to 24,481 in FY2012 to 38,759 in FY2013. In FY2014, the Department of Homeland Security (DHS), Customs and Border Protection (CBP) apprehended 68,541 UAC, a record at that time. Since FY2014, UAC apprehensions have fluctuated considerably, declining to 39,970 in FY2015, increasing to 59,692 in FY2016, declining to 41,435 in FY2017, and increasing to 50,036 in FY2018. In the first 11 months of FY2019, they reached 72,873, a level that now exceeds the FY2014 peak.

UAC are defined in statute as children under age 18 who lack lawful immigration status in the United States, and who are either without a parent or legal guardian in the United States, or without a parent or legal guardian in the United States who is available to provide care and physical custody. Two statutes and a legal settlement directly affect U.S. policy on the treatment and administrative processing of UAC: the Trafficking Victims Protection Reauthorization Act of 2008 (P.L. 110-457), the Homeland Security Act of 2002 (P.L. 107-296), and the *Flores Settlement Agreement* of 1997 (Flores).

Agencies in the Departments of Homeland Security (DHS) and Health and Human Services (HHS) share responsibility for the processing, treatment, and placement of unaccompanied children. DHS's Customs and Border Protection (CBP) apprehends and detains UAC arrested at the border. DHS's Immigration and Customs Enforcement (ICE) handles custody transfer and repatriation responsibilities, apprehends UAC in the interior of the country, and represents the government in removal proceedings. HHS's Office of Refugee Resettlement (ORR) coordinates and implements the care and placement of UAC in appropriate custodial settings.

In FY2009, children from Mexico accounted for 82% of the 19,688 UAC apprehensions at the Southwest border, while those from the "Northern Triangle" countries of El Salvador, Guatemala, and Honduras accounted for 17%. By the first 10 months of FY2019, the proportions had reversed, with Mexican nationals comprising 12% of the 69,157 UAC apprehensions at the border and the three Central American countries comprising 85%.

The Obama and Trump Administrations, as well as Congress, have taken several steps since 2014 to respond to UAC migrants. During 2014, when UAC apprehensions surged far beyond previous levels, the Obama Administration developed a working group to coordinate the efforts of relevant agencies. It also opened temporary "influx" shelters and holding facilities to accommodate the large number of UAC apprehended at the border, initiated programs to address root causes of child migration in Central America, and requested funding from Congress to deal with the crisis. In turn, Congress considered supplemental appropriations for FY2014 and provided increased funding for UAC-related activities in ORR and DHS appropriations for subsequent fiscal years.

The Trump Administration, facing relatively high levels of UAC apprehensions, as well as record high levels of family unit apprehensions, has used temporary influx shelter housing for unaccompanied minors while also attempting to reduce both the flow of migrants illegally crossing the Southwest border and limit who can apply for asylum. The Administration has implemented a biometric and biographic information-sharing agreement between ORR and DHS. During six weeks in 2018, it implemented a "zero tolerance" policy targeting illegal border crossing that effectively separated thousands of children from their parents and reclassified them as UAC. The Administration has also proposed regulations to replace Flores and allow ICE to detain parents and children together indefinitely.

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Background

Unaccompanied alien[1] children are defined in statute as children who

1) lack lawful immigration status in the United States,[2]

2) are under the age of 18, and

3) are either without a parent or legal guardian in the United States, or without a parent or legal guardian in the United States who is available to provide care and physical custody.[3]

Most unaccompanied children are apprehended between U.S. ports of entry along the southwestern border with Mexico. Apprehensions are made by the U.S. Border Patrol (USBP), an agency within the Department of Homeland Security's (DHS's), Customs and Border Protection (CBP). Less frequently, unaccompanied children are deemed inadmissible at U.S. ports of entry along the border by CBP's Office of Field Operations or apprehended in the interior of the country by DHS's Immigration and Customs Enforcement.[4]

During the 2000s, the number of apprehended unaccompanied children who were subsequently put into removal proceedings and referred to the Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) averaged 6,700 annually and ranged from a low of about 4,800 in FY2003 to a peak of about 8,200 in FY2007.[5]

Starting in FY2009, the number of UAC apprehensions at the Southwest border was substantially higher compared to prior years and then increased consistently between FY2011-FY2014 (**Figure 1**). By FY2014, UAC apprehensions had reached a then-record of 68,541, leading some Members of Congress as well as the Obama Administration to characterize the issue as a humanitarian crisis.[6] UAC apprehensions have since remained relatively high while fluctuating considerably (see "UAC Apprehension Levels" below).[7]

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[1] The term *alien* refers to people who are not U.S. citizens or U.S. nationals. Aliens include foreign nationals who are legally present as well as those not legally present. The term is defined in the Immigration and Nationality Act of 1952, as amended (INA), Section 101(a)(3), 8 U.S.C. 1101(a)(3).

[2] This results from entering the country "without inspection" (illegally), entering legally with fraudulent documents, or entering the country legally but overstaying the duration of admittance (i.e., a visa overstay). For more information, see CRS Report R43892, *Alien Removals and Returns: Overview and Trends*.

[3] 6 U.S.C. §279(g)(2). Although these children may have a parent or legal guardian who resides in the United States, they are classified as unaccompanied if the parent or legal guardian cannot provide *immediate* care. Children accompanied by any adult who is not a parent or a designated legal guardian, including family members such as older siblings or aunts and uncles, are also classified as unaccompanied.

[4] In this report, figures presented for UAC apprehensions (between U.S. ports of entry) do not include figures for UACs who are deemed inadmissible (at U.S. ports of entry). The latter constitute a relatively small portion of all UACs processed at the U.S. border and are processed by federal agencies in the same manner as UAC apprehended between ports of entry. Publicly available figures for the past three fiscal years of inadmissible UACs are presented below in "UAC Apprehension Levels."

[5] U.S. Department of Health and Human Services (HHS), Office of Refugee Resettlement, *Office of Refugee Resettlement Year in Review—FY2013*, December 20, 2013; and HHS, Administration for Children and Families, *Fiscal Year 2020, Justification of Estimates for Appropriations Committees*, p. 38.

[6] U.S. Congress, Senate Committee on the Judiciary, *Oversight of the Department of Homeland Security*, hearing, 113th Cong., 2nd sess., June 11, 2014 (hereinafter, *Oversight of the Department of Homeland Security, June 11, 2014)*.

[7] UAC apprehension data for individual years prior to FY2008 are not publicly available. In FY2001, UAC apprehensions numbered 5,385 and UAC referrals from CBP to ORR averaged about 7,100 for years FY2004-FY2012. See archived CRS Report RL33896, *Unaccompanied Alien Children: Policies and Issues* (available to congressional clients upon request); and HHS, Administration for Children and Families, *Fiscal Year 2017, Justification of Estimates*

Reasons why unaccompanied minors migrate to the United States are often multi-faceted and difficult to measure analytically.[8] During FY2014, when UAC apprehensions reached a then-record, the Congressional Research Service (CRS) analyzed several major factors contributing to UAC out-migration. These included violent crime, economic conditions, poverty, and the presence of transnational gangs. CRS also examined factors attracting UAC to the United States, such as the search for economic opportunity, the desire to reunite with family members, and incentives posed by U.S. immigration policies.[9] Critics of the Obama Administration's policy response at the time suggested that the sizeable increase in UAC flows resulted from a perception of child-related, immigration policy loopholes.[10] Critics often cited the 2008 statute[11] that treats UAC from contiguous countries (Mexico and Canada) differently than UAC from noncontiguous countries (see "Customs and Border Protection" below). Those same criticisms have been reiterated more recently in response to the continued high level of UAC apprehensions at the Southwest border.[12]

This report opens with an analysis of UAC apprehensions data, discusses current policy on the treatment, care, and custody of the UAC population, and describes the responsibilities of each federal agency involved. The report then reviews both administrative and congressional actions to address UAC surges from FY2014 to the present.

UAC Apprehension Levels

UAC apprehensions began to increase substantially in FY2011, from 16,067, to 24,481 in FY2012, and 38,759 in FY2013 (**Figure 1**). In FY2014, CBP apprehended 68,541 UAC, more than in any of the previous six years and more than four times as many UAC as in FY2011. Since FY2014, UAC apprehensions have fluctuated considerably, declining to 39,970 in FY2015, increasing to 59,692 in FY2016, declining to 41,435 in FY2017, and increasing to 50,036 in FY2018. In the first 11 months of FY2019, they reached 72,873, a level that now exceeds the peak reached in FY2014.[13]

As noted above, figures presented for UAC apprehensions (between U.S. ports of entry) do not include figures for UACs who are deemed inadmissible (at U.S. ports of entry). The latter

for Appropriations Committees, p.243.

[8] Matthew Lorenzen, "The Mixed Motives of Unaccompanied Child Migrants from Central America's Northern Triangle," *Journal on Migration and Human Security*, vol. 5, no. 4 (August 8, 2018).

[9] See archived CRS Report R43628, *Unaccompanied Alien Children: Potential Factors Contributing to Recent Immigration*. For information on the link between transnational gangs and unaccompanied alien children, see CRS Report R45292, *MS-13 in the United States and Federal Law Enforcement Efforts*; and Jessica Vaughan, "MS-13 Resurgence: Immigration Enforcement Needed to Take Back Our Streets," Center for Immigration Studies, February 21, 2018.

[10] Critics cited the Deferred Action for Childhood Arrivals (DACA) policy, begun under the Obama Administration in 2012, which grants certain aliens some protection from removal in two-year increments if they arrived in the United States as children and meet other requirements. See, for example, *Oversight of the Department of Homeland Security, June 11, 2014*. For background information on the DACA policy, see archived CRS Report R44764, *Deferred Action for Childhood Arrivals (DACA): Frequently Asked Questions*.

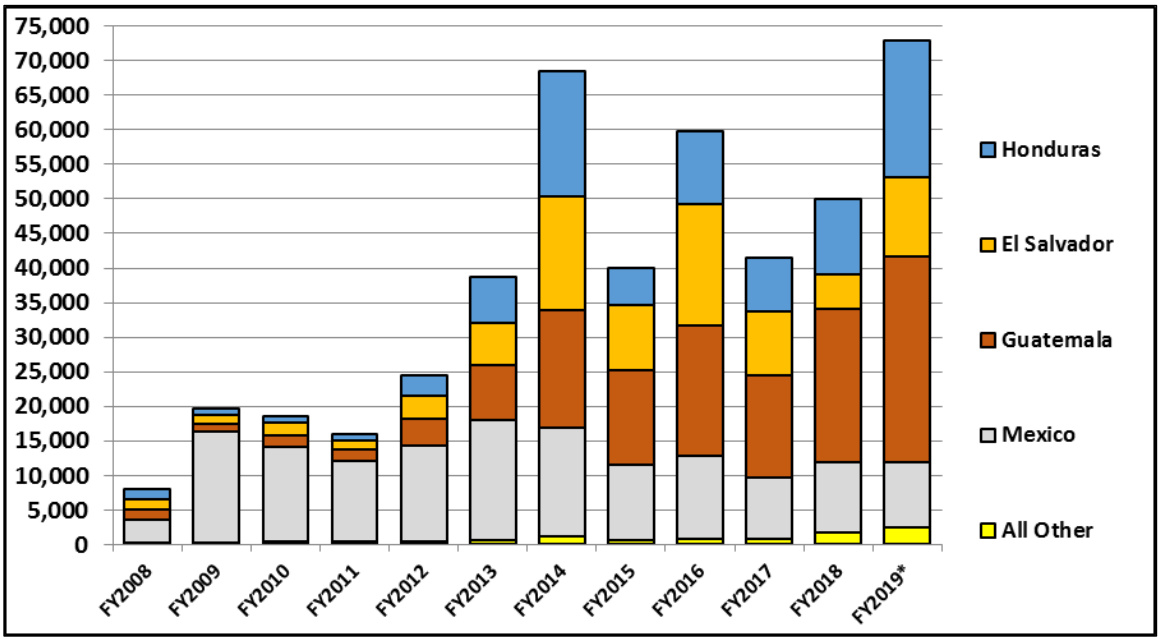
[11] The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA, P.L. 110-457).

[12] See, for example, Andrew R. Arthur, "Unaccompanied Alien Children and the Crisis at the Border, Center for Immigration Studies, April 1, 2019.

[13] U.S. Customs and Border Protection, "U.S. Border Patrol Southwest Border Apprehensions by Sector Fiscal Year 2019," June 5, 2019, https://www.cbp.gov/newsroom/stats/sw-border-migration/usbp-sw-border-apprehensions.

numbered 7,246 in FY2017, 8,624 in FY2018, and 4,235 for the first 11 months of FY2019.[14] These totals represent 15%, 15%, and 5%, respectively, of all UAC apprehended and deemed inadmissible by CBP during that time.

Figure 1. UAC Apprehensions between U.S. Ports of Entry at the Southwest Border, by Country of Origin, FY2008-FY2019*



Sources: For FY2008-FY2013: United States Border Patrol, "Juvenile and Adult Apprehensions—Fiscal Year 2013." For FY2014-FY2018: Customs and Border Protection, "U.S. Border Patrol Southwest Border Apprehensions by Sector FY2018." For FY2019: U.S. Border Patrol, "Southwest Border Apprehensions by Sector Fiscal Year 2019."

Notes: *The FY2019 figure represents just the first 11 months of the fiscal year. Prior to FY2017, CBP did not publish statistics on UAC deemed inadmissible. Therefore, inadmissible UAC are not presented in Figure 1 for the sake of consistency.

Nationals of Guatemala, Honduras, El Salvador, and Mexico account for the majority of unaccompanied children apprehended at the Mexico-U.S. border (**Figure 1**).[15] Apprehensions of Mexican UAC rose substantially from FY2008 to FY2009 and have fluctuated since then between roughly 9,000 and 17,000 UAC apprehensions per year. In contrast, the number of apprehensions of UAC from Guatemala, Honduras, and El Salvador have increased substantially starting in FY2012, and have remained high since then. In FY2009, Mexican UAC accounted for 82% of all 19,668 UAC apprehensions that year, while the other three Central American countries accounted for 17%. By the first 11 months of FY2019, those proportions had reversed, with Mexican UAC comprising 13% of the 72,873 UAC apprehensions and UAC from the three Central American countries comprising 85%. This demographic shift has had major administrative impacts given the difference in how U.S. federal agencies process UAC

[14] Prior to FY2017, CBP did not publish statistics on UAC deemed inadmissible. U.S. Customs and Border Protection, "Southwest Border Migration FY2017," "Southwest Border Migration FY2018," and "Southwest Border Migration FY2019," July 10, 2017, https://www.cbp.gov/newsroom/stats/sw-border-migration.

[15] UAC from "all other" countries made up less than 5% of total UAC apprehensions over the period presented. The absolute number of such UAC apprehensions totaled 1,711 in FY2018 and 2,440 in the first 11 months of FY2019.

originating from Mexico and Canada compared to their counterparts from the Northern Triangle (see "Processing and Treatment of Apprehended UAC" below).[16]

The majority of UAC apprehensions in FY2019 have occurred within the Rio Grande and El Paso border sectors (45% and 22%, respectively, in the first 11 months of FY2019).[17] Data on UAC who were in ORR care each month indicate that during the first 11 months of FY2019, the female UAC proportion was 31% and the proportion of UAC under age 15 was 23%.[18]

Over the past decade, an increasing number of children have arrived at the Southwest border accompanied by an adult, a trend that in some cases has had implications for federal agencies processing unaccompanied children (see "Zero Tolerance Immigration Enforcement Policy" below). Apprehensions of "family units" (at least one alien minor with at least one parent or legal guardian) numbered 11,116 in FY2012[19] and, like UAC apprehensions, climbed substantially in subsequent years. In the first 11 months of FY2019, family unit apprehensions totaled 457,871, a level that surpasses the *sum* of all family unit apprehensions since FY2012 (394,762), the first year that CBP published family unit apprehension figures.[20] Family units apprehended in FY2019 migrated almost entirely from the Northern Triangle.[21]

Legal Foundation of Current Policy

A court settlement and two laws most directly guide U.S. policy on the treatment and administrative processing of UAC: the *Flores Settlement Agreement* of 1997, the Homeland Security Act of 2002, and the Trafficking Victims Protection Reauthorization Act of 2008.

During the 1980s, allegations of UAC mistreatment by the former Immigration and Naturalization Service (INS)[22] led to a series of lawsuits against the U.S. government that eventually resulted in a 1997 consent decree, the *Flores Settlement Agreement* (*Flores Agreement*).[23] The *Flores Agreement* established a nationwide policy for the detention, treatment, and release of UAC and recognized the particular vulnerability of UAC as minors while detained without a parent or legal guardian.[24] It required that immigration officials detaining minors provide (1) food and drinking water, (2) medical assistance in emergencies, (3) toilets and sinks,

[16] For information on how the recent high levels of UAC apprehensions have affected federal agencies, see Letter from Kirstjen M. Nielsen, Secretary of Homeland Security, to United States Senate and U.S. House of Representatives, March 29, 2019.

[17] U.S. Customs and Border Protection, "U.S. Border Patrol Southwest Border Apprehensions by Sector Fiscal Year 2019," https://www.cbp.gov/newsroom/stats/sw-border-migration/usbp-sw-border-apprehensions, June 5, 2019.

[18] U.S. Department of Health and Human Services, "Latest UAC Data—FY2019," September 6, 2019, https://www.hhs.gov/programs/social-services/unaccompanied-alien-children/latest-uac-data-fy2019/index.html.

[19] CBP uses the term "family unit" to refer to *individuals* who arrive at a U.S. border. For example, a son and his father arriving at the Southwest border would be recorded by CBP as two family units. FY2012 is the first year for which data on family unit apprehensions are publicly available.

[20] U.S. Customs and Border Protection, "U.S. Border Patrol Southwest Border Apprehensions by Sector Fiscal Year 2019," https://www.cbp.gov/newsroom/stats/sw-border-migration/usbp-sw-border-apprehensions, June 5, 2019.

[21] Ibid. For more trend information, see CRS Report R45266, *The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy*, and Appendix.

[22] The Homeland Security Act of 2002 dissolved the former Immigration and Naturalization Service (INS) and assigned its functions to the Departments of Homeland Security, Justice, and Health and Human Services.

[23] *Flores v. Meese—Stipulated Settlement Agreement* (U.S. District Court, Central District of California, 1997). Many terms of the agreement have been codified at 8 C.F.R. §236.3, §1236.3.

[24] See U.S. Department of Homeland Security, Office of Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117, Washington, DC, September 2010.

(4) adequate temperature control and ventilation, (5) adequate supervision to protect minors from others, and (6) separation from unrelated adults whenever possible. For several years following the *Flores Agreement*, criticism continued over whether the INS had fully implemented the drafted regulations.[25]

Five years later, the Homeland Security Act of 2002 (HSA, P.L. 107-296) divided responsibilities for the processing and treatment of UAC between the newly created DHS and ORR. To DHS, the law assigned responsibility for the apprehension, transfer, and repatriation of UAC. To ORR, the law assigned responsibility for coordinating and implementing the care and placement of UAC in appropriate custody, reunifying UAC with their parents abroad if appropriate, maintaining and publishing a list of legal services available to UAC, and collecting statistical information on UAC, among other responsibilities.[26] The HSA also established the statutory definition of UAC as unauthorized minors not accompanied by a parent or legal guardian. Despite these developments, criticism continued that the *Flores Agreement* had still not been fully implemented.

Responding to ongoing concerns that CBP was not adequately screening apprehended UAC for evidence of human trafficking or persecution, Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA, P.L. 110-457). The TVPRA directed the Secretary of DHS, in conjunction with other federal agencies, to develop policies and procedures to ensure that UAC in the United States who are removed are safely repatriated to their countries of nationality or of last habitual residence.

The TVPRA set forth special rules for UAC from contiguous countries (i.e., Mexico and Canada), requiring that they be screened for evidence of human trafficking within 48 hours of apprehension. It mandated that unaccompanied children determined not to be human trafficking victims or not to have a fear of returning to their home country or country of last habitual residence be returned to their countries without additional penalties. It also required the Secretary of State to negotiate agreements with Mexico and Canada to manage the UAC repatriation process.

The TVPRA mandated that unaccompanied children from noncontiguous countries—as well as UAC from contiguous countries apprehended at the border and determined to be human trafficking victims or to have a fear of returning to their home country or country of last habitual residence, or who are apprehended away from the border—be transferred to the care and custody of ORR and placed in standard removal proceedings.

Processing and Treatment of Apprehended UAC

Several DHS agencies handle the apprehension, processing, and repatriation of UAC, while ORR handles the care and custody of UAC. The Executive Office for Immigration Review (EOIR) in the U.S. Department of Justice (DOJ) conducts immigration removal proceedings.

CBP apprehends, processes, and temporarily holds UAC along U.S. borders. DHS's Immigration and Customs Enforcement (ICE) physically transports UAC referred to ORR from CBP to ORR custody. ORR is responsible for sheltering UAC while they await an immigration hearing. DHS's U.S. Citizenship and Immigration Services (USCIS) is responsible for the initial adjudication of asylum applications filed by UAC after the children have been placed in removal proceedings. EOIR conducts immigration proceedings that determine whether UAC may be allowed to remain

[25] See U.S. Department of Justice, Office of the Inspector General, *Unaccompanied Juveniles in INS Custody*, Executive Summary, Report no. I-2001-009, September 28, 2001.

[26] ORR assumed care of UAC on March 1, 2003. P.L. 107-296, Section 462.

in the United States or must be deported to their home countries. ICE is responsible for repatriating UAC who are ordered removed from the United States. The following sections elaborate on each federal agency's role.

Customs and Border Protection

CBP's U.S. Border Patrol (USBP) and Office of Field Operations (OFO) are responsible for apprehending and processing unaccompanied children that arrive, respectively, between U.S. ports of entry (POEs) at or near the U.S. border, or at a POE.[27] Most UAC are apprehended between POEs and are transported to USBP facilities. UAC apprehended at POEs by are escorted to CBP secondary screening areas.

When CBP confirms a foreign national under age 18 lacks U.S. lawful immigration status and is unaccompanied, the minor is classified as an unaccompanied alien child under the Immigration and Nationality Act (INA), processed for immigration violations, and the consulate that represents the child's country of citizenship is notified that DHS has detained him or her. CBP also collects and enters identifying information about the UAC into DHS databases.[28] With the exception of Mexican and Canadian UAC who meet the three criteria discussed below, the TVPRA requires that USBP turn UAC over to ICE for transport to ORR within 72 hours of determining that the children meet the UAC definition.

As mentioned, the TVPRA directed the Secretary of Homeland Security, in conjunction with the Secretary of State, the Attorney General, and the Secretary of Health and Human Services, to develop policies and procedures to ensure that UAC are safely repatriated to their country of nationality or last habitual residence. Of particular significance, the TVPRA requires CBP to follow certain criteria for UAC who are nationals or habitual residents of a contiguous country.[29] Although the screening provision only applies to UAC from contiguous countries, in March 2009 DHS issued a policy that, in essence, made the screening provisions applicable to all UAC.[30]

For UAC from contiguous countries, the INA requires that CBP personnel must screen each unaccompanied child within 48 hours of apprehension to determine if the following statements are true:

- the UAC has not been a victim of a severe form of trafficking in persons and there is no credible evidence that the minor is at risk of being trafficked upon return to his/her country of nationality or last habitual residence;
- the UAC does not have a fear of returning to his/her country of nationality or last habitual residence owing to a credible fear of persecution; and

[27] USBP oversees immigration and customs enforcement *between* ports of entry. OFO oversees the inspection of travelers and goods *at* ports of entry. All UAC are processed, regardless of where they enter, but only UAC that arrive between U.S. ports of entry are apprehended.

[28] UAC processing includes gathering *biographic* data such as name, age, citizenship, and accompanied or unaccompanied status. USBP agents also collect *biometric* data on UAC (e.g., fingerprints) and query relevant immigration, terrorist, and criminal databases.

[29] 8 U.S.C. §1232(a)(2).

[30] Testimony of Office of Immigration and Border Security Acting Deputy Assistant Secretary Kelly Ryan, U.S. Congress, Senate Committee on the Judiciary, *Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking*, hearing, 112th Cong., 1st sess., September 14, 2011.

- the UAC is able to decide independently to return voluntarily to his/her country of nationality or last habitual residence.[31]

If CBP determines that all three of the above statements are true about a UAC and, therefore, that he or she is inadmissible under the INA,[32] the UAC must return to his or her home country. In such cases, CBP can permit the child to withdraw his/her application for admission,[33] allowing the minor to return voluntarily to his or her country of nationality or last habitual residence.

The TVPRA contains provisions for the treatment of UAC from contiguous countries while in the care and custody of CBP, and it provides guidance for CBP personnel on repatriating minors. It requires the Secretary of State to negotiate agreements with Mexico and Canada for repatriation of their UAC that serve to protect the children from trafficking. These agreements, at minimum, must include provisions that (1) ensure the handoff of the minor children to an appropriate government official; (2) prohibit returning UAC outside of "reasonable business hours;" and (3) require border personnel of the contiguous countries be trained in the terms of the agreements.

Unaccompanied children from noncontiguous countries who are not subject to TVPRA's special repatriation procedures for UAC from Mexico or Canada (i.e., withdrawal of application for admission) are placed in standard removal proceedings pursuant to INA Section 240. The TVPRA specifies that in standard removal proceedings, UAC are eligible for voluntary departure under INA Section 240B at no cost to the child.[34]

As noted, OFO processes UAC apprehended at POEs at CBP secondary screening areas and UAC apprehended between POE are processed at USBP facilities. In January 2008, CBP issued a memorandum entitled "Hold Rooms and Short Term Custody."[35] Following the issuance of this policy, nongovernmental organizations (NGOs) criticized the Border Patrol for failing to uphold related provisions in current law and the *Flores Agreement*.[36] In 2010, the DHS Office of Inspector General (OIG) issued a report concluding that while CBP was in general compliance with the *Flores Agreement*, it needed to improve its handling of UAC.[37] In 2015, CBP issued

[31] P.L. 110-457, Title II, §235(a)(2)(A).

[32] Before admitting a foreign national to enter the United States, CBP must confirm or establish the individual's admissibility according to the grounds for inadmissibility in INA §212(a), 8 U.S.C. §1182(a).

[33] Under INA §235(a)(4), apprehension at the border constitutes an application for admission to the United States. In this case, "withdrawal of application for admission" permits the UAC to return immediately to Mexico or Canada and avoid administrative or other penalties.

[34] For more information on voluntary departure, voluntary return, and withdrawal of application for admission, see CRS Report R43892, *Alien Removals and Returns: Overview and Trends*.

[35] UAC are held in "hold rooms" at Border Patrol stations. The 2008 memorandum, which is publicly available but redacted, outlines agency policy on the care and treatment of individuals in CBP care and custody. See U.S. Customs and Border Patrol, "Hold Rooms and Short Term Custody," January 31, 2008.

[36] See, for example, Betsy Cavendish and Maru Cortazar, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors*, Appleseed, Washington DC, 2011 (hereinafter, *Children at the Border*). The Appleseed Foundation was established in 1994 by members of Harvard Law School's Class of 1958.

[37] U.S. Department of Homeland Security, Office of Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117, Washington, DC, September 2010. The OIG report did not address whether CBP was complying with the TVPRA. As noted above, the TVPRA requires CBP personnel to screen UAC from contiguous countries for human trafficking *and* for fear of persecution if they are to be repatriated. One NGO, the Appleseed Foundation conducted a two-year study on UAC and asserted in its report, *Children at the Border*, published in 2011 that CBP was not adequately screening UAC according to TVPRA provisions (not doing it in some cases, doing it sporadically in others) and had not established related training for its Border Patrol agents. Relatedly, the 2010 OIG study was unable to determine whether CBP personnel had sufficient training to comply with the provisions in the *Flores Agreement.*

standards to address the interaction of its personnel with detained individuals.[38] Yet, NGOs continued to criticize CBP for its treatment of UACs and other detainees.[39] In 2018, a multi-disciplinary team from DHS's OIG conducted unannounced site inspections at nine CBP facilities within the El Paso and Rio Grande Valley border sectors in Texas. The OIG reported that the CBP facilities appeared to be operating in compliance with the 2015 standards.[40]

Immigration and Customs Enforcement

ICE is responsible for physically transferring UAC from CBP to ORR custody. ICE also may apprehend UAC in the U.S. interior during immigration enforcement actions. In addition, ICE represents the government in removal proceedings before EOIR.

ICE is also responsible for the physical removal of all foreign nationals, including UAC, who have final orders of removal or who have elected to voluntarily depart from the United States while in removal proceedings.[41] ICE notifies the country of the foreign national being removed from the United States.[42] To safeguard the welfare of all UAC, ICE has established policies for repatriating UAC, including

- returning UAC only during daylight hours;
- recording transfers by ensuring that receiving government officials or designees sign for custody;
- returning UAC through a port designated for repatriation;
- providing UAC the opportunity to communicate with a consular official prior to departure for the home country; and
- preserving the unity of families during removal.[43]

To implement a removal order for a UAC, however, the U.S. government must secure travel documents from his or her country. As such, the United States depends on the willingness of foreign governments to accept the return of their nationals. Each country has documentary requirements for repatriation of their nationals.[44] While some allow ICE to use a valid passport to remove an alien (if the alien possesses one), others require ICE to obtain a specific repatriation

[38] U.S. Customs and Border Protection, *National Standards on Transport, Escort, Detention, and Search*, October 2015.

[39] See Human Rights Watch, *In the Freezer: Abusive Conditions for Women and Children in US Immigration Holding Cells*, February 2018; and the University of Chicago Law School, International Human Rights Clinic, the American Civil Liberties Union (ACLU) Border Litigation Project, and ACLU Border Rights, *Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection*, May 2018.

[40] U.S. Department of Homeland Security, *Office of Inspector General, Results of Unannounced Inspections of Conditions for Unaccompanied Alien Children in CBP Custody*, OIG-18-87, September 28, 2018.

[41] For more information on Voluntary Departure, see CRS Report R43892, *Alien Removals and Returns: Overview and Trends*.

[42] ICE uses a country clearance to notify a foreign country, through a U.S. Embassy abroad, that a foreign national is being repatriated. In addition, when ICE personnel escort the alien during the repatriation, the country clearance process notifies the U.S. Ambassador abroad that U.S. government employees will be travelling to the country.

[43] ICE Congressional Relations, email correspondence, May 16, 2014, and confirmed by CRS, August 6, 2019.

[44] Depending on the country and where the UAC is housed, consular officer from that country will conduct in-person or phone interviews. Olga Byrne and Elise Miller, *The Flow of Unaccompanied Children Through the Immigration System*, Vera Institute of Justice, Washington, DC, March 2012, p. 27 (hereinafter, *The Flow of Unaccompanied Children*).

document.[45] According to one report, obtaining travel documents can become problematic, because countries may change their documentary requirements or object to a juvenile's return.[46]

Once the foreign country has issued travel documents, ICE arranges the UAC's transport. If the return involves plane travel, ICE personnel accompany the UAC to his or her home country. ICE uses commercial airlines for most UAC removals. ICE provides two escort officers for each UAC.[47] Mexican UAC are repatriated in accordance with nine Local Repatriation Agreements (LRAs) covering the full length of the U.S.-Mexico border, which require that ICE notify the Mexican Consulate for each UAC repatriated. Additional specific requirements apply to each LRA (e.g., specific hours of repatriation).[48]

Office of Refugee Resettlement

The Unaccompanied Alien Children Program at ORR provides for the custody and care of unaccompanied alien minors who have been apprehended and referred by CBP or ICE, or who have been referred by other federal agencies. The TVPRA directed that HHS ensure that UAC "be promptly placed in the least restrictive setting that is in the best interest of the child."[49] The HSA required that ORR *develop a plan* to ensure the timely appointment of legal counsel for each UAC,[50] ensure that the child's interests are considered in decisions and actions relating to his or her care and custody, and oversee the infrastructure and personnel of UAC residential facilities, among other responsibilities.[51] ORR also screens each UAC to determine if the child has been a victim of a severe form of trafficking in persons, if there is credible evidence that the child would be at risk if returned to his/her country of nationality or last habitual residence, and if the child has a possible claim to asylum.[52]

ORR arranges to house the child in one of its network of shelters while seeking to place him or her with a sponsor, typically a family member. According to ORR, the majority of the youth are cared for initially through a network of about 170 state-licensed shelters in 23 states.[53] These

[45] Annex 9 of the Civil Aviation Convention, Section 5.21, requires that countries issue travel documents, but the convention lacks an enforcement mechanism.

[46] *The Flow of Unaccompanied Children*, p. 27. For more information, see CRS In Focus IF11025, *Immigration: "Recalcitrant" Countries and the Use of Visa Sanctions to Encourage Cooperation with Alien Removals*.

[47] An additional officer is added for each group exceeding five UAC. The gender of the officers corresponds to the gender of the children repatriated. ICE Congressional Relations, email correspondence, May 16, 2014, and confirmed by CRS, August 6, 2019.

[48] Ibid. For more information, see U.S. Department of Homeland Security, "Updated U.S. Mexico Local Repatriation Arrangements," https://www.dhs.gov/publication/updated-us-mexico-local-repatriation-arrangements, May 28, 2019.

[49] §§235(a)-235(d) of TVPRA; 8 U.S.C. §1232(c)(2).

[50] Section 462(b) of the HSA describe conditions for the care and placement of UAC in federal custody. Regarding legal counsel, the statutory language states: "…the Director of the Office of Refugee Resettlement shall be responsible for ... coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act."

[51] Section 235(c) of the TVPRA and

[52] As noted previously, all UAC are initially screened by CBP for trafficking victimization or risk as well as possible claims to asylum, regardless of country of origin. CBP shares some information with ORR. For more information, see U.S. Department of Health and Human Services, Office of Inspector General, "Separated Children Placed in Office of Refugee Resettlement Care," HHS-OIG Issue Brief, OEI-BL-18-00511, January 2019.

[53] U.S. Department of Health and Human Services, Administration for Children and Families, *Office of Refugee Resettlement, Unaccompanied Alien Children Program*, Fact Sheet, August 29, 2019, (hereinafter, *ORR UAC Fact*

ORR-funded and supervised care providers offer classroom education, mental and medical health services,[54] case management, and socialization and recreation. ORR oversees different types of shelters to accommodate unaccompanied children with different circumstances, including standard shelter care, secure care, and transitional foster care.[55] A juvenile may be held in a secure facility only if he or she

- is charged with criminal or delinquent offense,
- threatens or commits violence, displays unacceptably disruptive conduct in a shelter,
- presents an escape risk,
- is in danger and is detained for his/her own safety, or
- is part of an influx of minors that results in insufficient bed space at standard facilities.[56]

ORR shelter personnel also facilitate the release of UAC to family members or other sponsors who are able to care for them.[57] The *Flores Agreement* outlines the following preference ranking for sponsor types: (1) a parent; (2) a legal guardian; (3) an adult relative; (4) an adult individual or entity designated by the child's parent or legal guardian; (5) a licensed program willing to accept legal custody; or (6) an adult or entity approved by ORR.[58] Removal proceedings continue even when UAC are placed with parents or other relatives.

In making these placement determinations, ORR conducts an investigation, which includes criminal background and sex-offender registry checks. It also confirms the identity of the adult assuming legal guardianship for the UAC, ensures that the adult does not have a record of abusive behavior and ensures the sponsor's ability to provide for the physical and mental well-being of the child.[59] ORR has also begun collecting biometric (fingerprint) and immigration legal status information from sponsors (see "Trump Administration Action" below). ORR may consult with the consulate of a UAC's country of origin as well as interview the UAC to ensure he or she agrees with the proposed placement. In a range of circumstances, ORR may require a home study as an additional precaution.[60] In addition, the parent or guardian is required to complete a Parent

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Sheet); and U.S. Department of Health and Human Services, Administration for Children and Families, *Report to Congress on Unaccompanied Alien Children Program, Facility Oversight* (undated). Some communities and states have objected to unaccompanied children being placed in their jurisdictions (either in ORR shelters or through family placements) as well as the lack of notification of such placements by ORR. See for example, U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration and Border Security, *Impact on Local Communities of the Release of Unaccompanied Alien Minors and the Need for Consultation and Notification*, hearing, 113th Cong., 2nd sess., December 10, 2014.

[54] For more information on medical service provision, see Office of Refugee Resettlement, Division of Children's Services, *Program Guidance: Updated Initial Medical Exam Requirements*, January 10, 2018.

[55] Standard shelter care refers to a minimally restrictive level of care for most UAC without special needs. Secure care facilities are generally reserved for children with behavioral issues, a history of violent offenses, or who pose a threat to themselves or others. For more information on shelters and ORR's policies for unaccompanied children more broadly, see Office of Refugee Settlement, *ORR Guide: Children Entering the United States Unaccompanied*, Section 1.

[56] *Flores v. Meese—Stipulated Settlement Agreement* (U.S. District Court, Central District of California, 1997), Exhibit 2.

[57] *ORR UAC Fact Sheet*.

[58] *Flores v. Meese—Stipulated Settlement Agreement* (U.S. District Court, Central District of California, 1997), p. 10.

[59] *ORR UAC Fact Sheet*.

[60] A home study is an in-depth investigation of the potential sponsor's ability to ensure the child's safety and well-being and involves background checks of both the sponsor and any adult household members, one or more home visits, a face-to-face interview with the sponsor and potentially with other household members, and post-release services.

Reunification Packet to attest that he or she agrees to take responsibility for the UAC and provide proper care.[61] ORR reports that most children it serves are reunified with family members.[62] For the second quarter of FY2019, ORR reported that children spent an average of 47 days in ORR shelters, an increase from the 34-day average in January 2016 but a decline from the 93-day average in November 2018.[63]

In cases where a sponsor cannot be located, UAC are placed in a long-term care setting, such as community based foster care or extended care group home.[64] According to ORR, long-term foster care involves "ORR-funded community-based foster care placements and services to which eligible unaccompanied alien children are transferred after a determination is made that the child will be in ORR custody for an extended period of time. Unaccompanied alien children in ORR long-term foster care typically reside in licensed foster homes, attend public school, and receive community-based services."[65]

Figure 2 shows both annual UAC apprehensions and annual referrals of unaccompanied children to ORR since FY2008. As expected, as the number of apprehensions increase, so to do referrals to ORR, but in recent years, as children from noncontiguous countries have dominated the share of all UAC apprehensions, the percentage of UAC apprehended who are referred to ORR has increased. In FY2009, when unaccompanied children from the three Northern Triangle countries comprised 17% of all UAC apprehensions, the proportion of children referred to ORR was 34% of total apprehensions. In the first 10 months of FY2019, when unaccompanied children from Northern Triangle countries comprised 85% of all UAC apprehensions, the proportion of UAC referred to ORR was 92%. As noted above, not all UAC are referred to ORR; for instance, many UAC from contiguous countries voluntarily return home.

Pursuant to the TVPRA of 2008, home studies are required for certain UAC considered especially vulnerable.

[61] U.S. Department of Health and Human Services, Administration for Children & Families, Unaccompanied Alien Children Program, *ORR Family Reunification Packet for Sponsors (English/Español)*, https://www.acf.hhs.gov/orr/resource/unaccompanied-childrens-services, May 9, 2019.

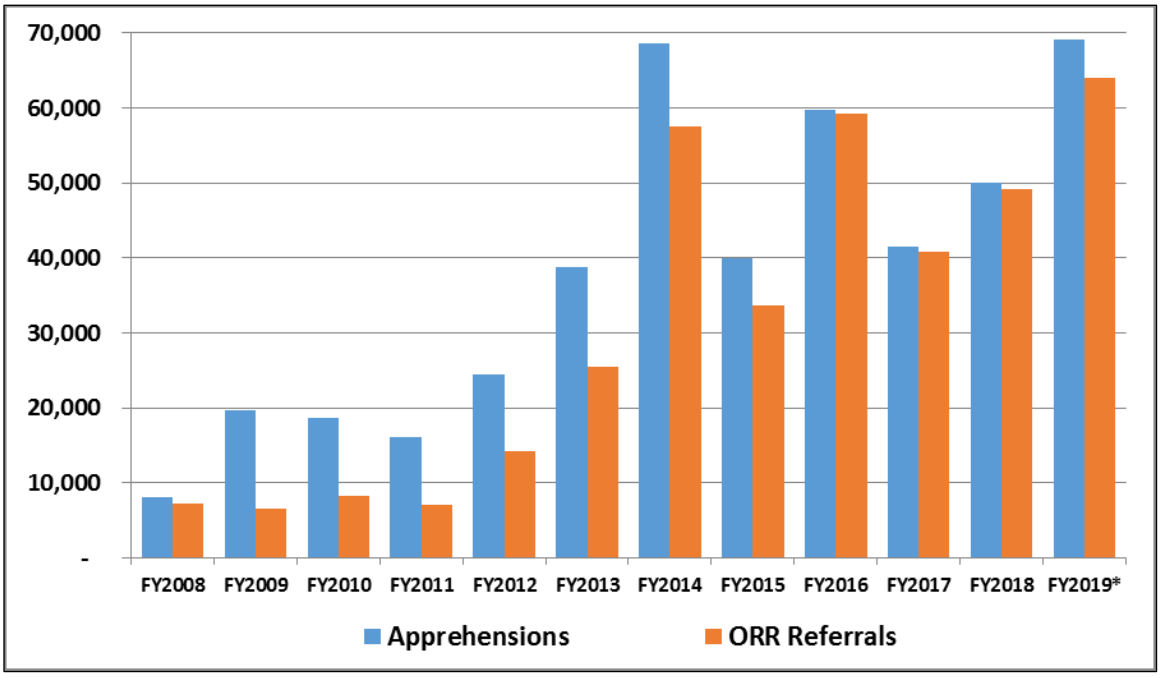
[62] In FY2018, 76% of discharged UAC were released by ORR to a sponsoring family member. (Of this group 47% were parents or legal guardians, and 53% were other close relatives.) About 9% of discharged UAC were released to other sponsors, such as distant relatives and unrelated adult individuals. The remaining 15% of discharged UAC represent children without identified sponsors who exited ORR care, including children who "aged out" (reached age 18), children who accepted voluntary departure or who received a designation as an Unaccompanied Refugee Minor, or other discharge options. Unpublished data provided to CRS by U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Office of Legislative Affairs, June 26, 2019.

[63] *ORR UAC Fact Sheet*. Earlier versions of this fact sheet issued in January 2016 and May 2014 cited an average of 34 days and 35 days, respectively.

[64] According to ORR, a child is a candidate for long term care if: he or she is expected stay in ORR custody for at least four months for lack of a viable sponsor; a legal service provider has identified the child as potentially eligible for immigration relief (unless waived by ORR); and the child is under age 17½ when placed. ORR may also consider a long-term care placement on a case-by-case basis for an unaccompanied child who will have a longer stay due to other circumstances. Such placement is prioritized for children under age 13, sibling groups with one child younger than 13, pregnant and parenting teens, and children with special needs, including mental health needs. U.S. Department of Health and Human Services, Administration for Children and Families, *ORR Guide: Children Entering the United States Unaccompanied*, Sections 1.2.2 and 1.2.6.

[65] U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, email correspondence, May 23, 2019. For more information, see U.S. Department of Health and Human Services, Administration for Children and Families, *ORR Guide: Children Entering the United States Unaccompanied*, Section 3.6.

Figure 2. UACs Apprehended and Referred to ORR Custody, FY2008-FY2019*



Source: ***Apprehensions*:** See sources for **Figure 1** above; ***Referrals***: FY2008-FY2018: HHS, Administration for Children and Families, *Fiscal Year 2019, Justification of Estimates for Appropriations Committees*, p. 43; FY2019: HHS, "Latest UAC Data—FY2019," September 6, 2019, https://www.hhs.gov/programs/social-services/unaccompanied-alien-children/latest-uac-data-fy2019/index.html.

Notes: *The FY2019 figures represent the first 10 months of the fiscal year, through July 31, 2019. FY2019 ORR referral figure computed by multiplying ORR 30-day average number of UAC referrals for each month by that month's number of days and summing those products across the first 10 months of the fiscal year.

The sizable increases in UAC referrals since FY2008 have challenged ORR to meet the demand for its services while maintaining related child welfare protocols and administrative standards.[66] These challenges attracted public attention in January 2016 when a Senate investigation indicated that in FY2014, some UAC, who originally were sponsored by distant relatives and parental-approved guardians, ended up being forced to work in oppressive conditions on an Ohio farm. The related Senate report outlined a range of what it characterized as serious deficiencies related to the safe placement of children with distant relatives and unrelated adults as well as post-placement follow-up.[67] During the Senate Homeland Security Committee hearing that followed, HHS officials acknowledged limitations of their screening and post-placement follow-up

[66] The Government Accountability Office (GAO) has raised concerns about ORR's lack of a planning process for its capacity needs, inconsistent monitoring of service provision by its nonprofit grantee organizations that provide shelter services, limited contact with children following their placement, and unreliable and unsystematic administrative recording of post-placement follow-up procedures. See U.S. Government Accountability Office, *Unaccompanied Children: HHS Can Take Further Actions to Monitor Their Care*, GAO-16-180, February 2016; and U.S. Government Accountability Office, *DHS and HHS Have Taken Steps to Improve Transfers and Monitoring of Care, but Actions Still Needed*, GAO-18-506T, April 26, 2018. Similar concerns have been raised by Congress. See U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Oversight of the Care of Unaccompanied Alien Children*, Staff Report, 115th Cong., 2nd sess., August 13, 2018.

[67] United States Senate, Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Protecting Unaccompanied Alien Children from Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement*, staff report, undated.

procedures for such sponsors. They also contended that HHS liability terminates once custody of an unaccompanied minor is handed over to a sponsor.[68] According to news reports, DHS and HHS agreed to establish new guidelines within a year to prevent episodes such as the farm-related trafficking incident from reoccurring, an outcome that the GAO reported in 2018 remained unfulfilled.[69]

In April 2018, during a Senate Homeland Security Committee hearing, an HHS official testified that ORR was unable to account for 1,475 of the 7,635 unaccompanied children placed with sponsors between October and December of 2017.[70] According to HHS, ORR began voluntarily conducting post-placement outreach as a "30-day checkup" to ensure that children and their sponsors did not require additional services even though HHS maintained that it had no legal responsibility to locate UAC after placement with sponsors. Some observers suggested that many nonresponsive sponsors may be residing in the United States illegally and may be reluctant to respond to official post-placement outreach.[71] A 2016 HHS OIG report found a similar proportion of UAC unaccounted for, post-placement.[72]

Some observers have raised concerns over ORR's handling of many children who "age out" of UAC status once they reach age 18. Recent reports have described incidents of children being abruptly taken into ICE custody on or soon after their 18th birthdays and placed in adult immigration detention.[73] Such treatment has led to at least one lawsuit.[74] Some have attributed this practice to a lack of ORR transition planning for children who will soon reach age 18.[75]

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[68] U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Adequacy of the Department of Health and Human Services' Efforts to Protect Unaccompanied Alien Children From Human Trafficking*, hearing, 114th Cong., 2nd sess., January 28, 2016.

[69] U.S. Government Accountability Office, *DHS and HHS Have Taken Steps to Improve Transfers and Monitoring of Care, but Actions Still Needed*, GAO-18-506T, April 26, 2018.

[70] Testimony of Steven Wagner, Acting Assistant Secretary, Administration for Children and Families, U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Oversight of HHS and DHS Efforts to Protect Unaccompanied Alien Children from Human Trafficking and Abuse*, 115th Cong., 2nd sess., April 26, 2018.

[71] Amy Harmon, "Did the Trump Administration Separate Immigrant Children From Parents and Lose Them?" *New York Times*, May 28, 2018.

[72] U.S. Department of Health & Human Services, Office of Inspector General, *HHS's Office of Refugee Resettlement Improved Coordination and Outreach to Promote the Safety and Well-Being of Unaccompanied Alien Children*, OEI-09-16-00260, July 2017.

[73] See, for example, John Burnett, "Migrant Youth Go From A Children's Shelter To Adult Detention On Their 18th Birthday," *NPR*, February 22, 2019; and Emily Stewart, "Immigrant children can be detained, prosecuted, and deported once they turn 18," *Vox*, June 21, 2018.

[74] See for example, *Wilmer Garcia Ramirez, Sulma Hernandez Alfaro et al. v. ICE*, case 1:18-cv-00508 (U.S. District Court, Washington, DC); and *Americans for Immigrant Justice Inc. v. U.S. Department of Homeland Security et al.*, case 1:19-cv-23261 (U.S. District Court for the Southern District of Florida).

[75] U.S. Congress, House Committee on Appropriations, Subcommittee on the Departments of Labor, Health and Human Services, Education, and Related Agencies, *Departments of Labor, Health, and Human Services, and Education, and Related Agencies Appropriations Bill, 2020*, report to accompany H.R. 2740, 116th Cong., 1st sess., H.Rept. 116-62, May 15, 2019, p. 147 (hereinafter, H.Rept. 116-62). The Committee cited reports that approximately two-thirds of unaccompanied children turning 18 years old while in the care and custody of ORR are transferred directly to ICE custody.

U.S. Citizenship and Immigration Services

As mentioned, U.S. Citizenship and Immigration Services (USCIS) is responsible for the initial adjudication of asylum applications filed by UAC.[76] If either CBP or ICE determines that an apprehended child is a UAC and transfers him/her to ORR custody, USCIS generally will take jurisdiction over any asylum application, even where evidence shows that the child reunited with a parent or legal guardian after CBP or ICE made the UAC determination. As of enactment of the TVPRA, USCIS also has initial jurisdiction over asylum applications filed by UAC with pending claims in immigration court, with cases on appeal before the Board of Immigration Appeals, or with petitions under review with federal courts. UAC must appear at any hearings scheduled in immigration court, even after petitioning for asylum with USCIS.[77]

Executive Office for Immigration Review

The Executive Office for Immigration Review (EOIR) is responsible for conducting removal proceedings and adjudicating immigration cases.[78] Generally, an immigration removal proceeding allows the foreign national and the U.S. government to present testimony so that the immigration judge can determine whether the foreign national is removable or qualifies for some type of relief from removal (i.e., the alien is permitted to remain in the United States either temporarily or permanently). The TVPRA requires that HHS ensure, "to the greatest extent practicable," that UAC have access to legal counsel. It also authorizes HHS to appoint independent child advocates for child trafficking victims and other vulnerable unaccompanied children.[79]

EOIR's policies for conducting UAC removal hearings are intended to ensure that children understand the nature of the proceedings, effectively present evidence about their cases, and have appropriate assistance. The policy guidelines discuss possible adjustments to create "an atmosphere in which the child is better able to participate more fully in the proceedings." Under these guidelines, immigration judges should

- establish special dockets for UAC that are separate from the general population;
- allow child-friendly courtroom modifications (e.g., judges not wearing robes, allowing the child to have a toy, permitting the child to testify from a seat rather than the witness stand, allowing more breaks during the proceedings);
- provide courtroom orientations to familiarize the child with the court;
- explain the proceedings at the outset;
- prepare the child to testify;
- employ child-sensitive questioning; and
- encourage the use of pro bono legal counsel if the child is not represented.[80]

[76] For information on asylum, see CRS Report R45539, *Immigration: U.S. Asylum Policy*.

[77] For background information on the UAC asylum process, see archived CRS Report R43664, *Asylum Policies for Unaccompanied Children Compared with Expedited Removal Policies for Unauthorized Adults: In Brief*.

[78] For more information on immigration courts, see U.S. Department of Justice, Executive Office for Immigration Review, "Executive Office for Immigration Review: An Agency Guide," December 2017.

[79] TVPRA (P.L. 110-457), Section 235(b).

[80] U.S. Department of Justice, Executive Office for Immigration Review, Operating Policies and Procedures Memorandum 17-03: *Guidelines for Immigration Court Cases Involving Juveniles, Including Unaccompanied Alien Children*, MaryBeth Keller, Chief Immigration Judge, December 20, 2017. This memorandum updates OPPM 07-01 from May 22, 2007.

On July 9, 2014, in response to the UAC surge, EOIR issued new guidelines that prioritized cases involving unaccompanied children and nondetained families above other cases in the immigration courts and placed these cases on the same level as those of detained aliens.[81] EOIR has since revised these priorities three times. Its most recent guidance, issued January 17, 2018, does not prioritize UAC cases.[82]

Table 1. UAC Initial Case Completion by Outcome and Legal Representation

(FY2018 and first half of FY2019)

Outcome	Cases With Legal Representation		Cases Without Legal Representation		Total Cases	
	Cases	*% of Total*	*Cases*	*% of Total*	*Cases*	*% of Total*
Removal	3,721	39%	9,179	90%	12,900	65%
Termination	3,836	40%	571	6%	4,407	22%
Voluntary Departure	1,444	15%	460	4%	1,904	10%
Relief Granted	458	5%	7	0%	465	2%
Other	84	1%	9	0%	93	0%
Total	**9,543**	**100%**	**10,226**	**100%**	**19,769**	**100%**

Source: Executive Office for Immigration Review, unpublished data provided to CRS, May 13, 2019.

Notes: Figures may not sum to totals presented because of rounding.

CRS reviewed recent EOIR data covering October 1, 2017, through March 31, 2019 (**Table 1**). Over this 18-month period, EOIR received 38,060 new UAC cases and completed 19,769 cases.[83] Of the total completed cases, 12,900 resulted in removal orders, of which 10,025 (78%) were issued *in absentia*, meaning that the UAC had not shown up to the hearing. Of the other total completed cases that did not result in a removal order, 4,407 were terminated,[84] 1,904 resulted in voluntary departure,[85] and 93 resulted in other outcomes.[86] In 465 cases (2% of all initial case

[81] EOIR's priorities were (1) unaccompanied child; (2) adults with a child or children detained; (3) adults with a child or children released on alternatives to detention; and (4) recently detained border crossers. See statement of Juan P. Osuna, Director of Executive Office of Immigration Review, U.S. Department of Justice, *The President's Emergency Supplemental Request for Unaccompanied Children and Related Matters*, in U.S. Congress, Senate Committee on Appropriations, hearings, 113th Cong., 2nd sess., July 10, 2014. Some subsequently criticized these policies for rushing the adjudication process. See, for example, U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration and Border Security, *Oversight of the Executive Office for Immigration Review*, statement of Ranking Member Zoe Lofgren, hearing, 114th Cong., 1st sess., December 3, 2015, transcript serial no. 114-57, pp. 34-35.

[82] EOIR's priorities for case completion include (1) all cases involving individuals in detention or custody; (2) cases subject to a statutory or regulatory deadline; (3) cases subject to a federal court-ordered deadline; and (4) cases otherwise subject to an established benchmark for completion. As such, UAC are not included in any of these categories. Additional priorities are outlined in Appendix A of the 2018 guidance. See U.S. Department of Justice, Executive Office for Immigration Review, memorandum from James R. McHenry III, Director, *Case Priorities and Immigration Court Performance Measures*, January 17, 2018.

[83] EOIR may have received the cases prior to FY2018 that it completed during this period.

[84] A case termination refers to a decision by an immigration judge to dismiss the case associated with a particular charging document. The conventional charging document given to a UAC who is put into removal proceedings is the *Notice to Appear*. If a case is terminated in this situation, the child is not subject to removal related to the dismissed charging document. If DHS choses to subsequently pursue the case, it must issue a new charging document.

[85] A UAC may elect to leave the United States voluntarily at any point during his or her removal proceedings. For more information on voluntary departure, see CRS Report R43892, *Alien Removals and Returns: Overview and Trends*.

[86] EOIR describes other outcomes as "administrative closure for reasons other than prosecutorial discretion, by joint

completions for this period), children received some form of immigration relief. Typical forms of immigration relief for UAC include asylum, special immigrant juvenile (SIJ) status for abused, neglected, or abandoned children who are declared dependent by state juvenile courts,[87] and "T nonimmigrant status" for victims of trafficking.[88]

Outcomes varied considerably depending upon whether children received legal representation. Of the 10,226 children *without* legal representation, 90% (9,179) were ordered removed, and of those, 91% (8,375) were removed in absentia. In contrast, of the 9,543 children *with* legal representation, only 39% (3,721) were ordered removed, and of those, only 44% (1,650) were removed in absentia. Similarly, 5% of represented children (458) received some form of immigration relief compared with a handful of nonrepresented children (7).

Administration and Congressional Action

The Obama and Trump Administrations, as well as Congress, have taken action since 2014 to respond to the increase in UAC apprehensions. During 2014, when UAC apprehensions reached a record at the time, the Obama Administration developed a working group to coordinate efforts of the federal agencies involved in responding to the issue. The Obama Administration also temporarily opened additional shelters and holding facilities to accommodate the large number of UAC apprehended at the border, initiated programs to address root causes of child migration from Central America to the United States, and requested funding from Congress.

The Trump Administration, also facing high levels of UAC and family unit apprehensions, has taken steps to provide housing for unaccompanied minors while also attempting to reduce both the flow of migrants illegally crossing the Southwest border and the number of families who file meritless asylum claims to gain U.S. entry. The Administration has also implemented a biometric and biographic information-sharing agreement between ORR and DHS that is intended to ensure greater child safety and immigration enforcement.

Obama Administration Action

In response to the surge of UAC apprehensions, the Obama Administration in June 2014 announced the formation of a Unified Coordination Group headed by Craig Fugate, the Administrator of the Federal Emergency Management Agency (FEMA), with representatives from key agencies.[89] The FEMA administrator's role was to "lead and coordinate Federal response efforts to ensure that Federal agency authorities and the resources granted to the departments and agencies under Federal law … are unified in providing humanitarian relief to the affected children, including housing, care, medical treatment, and transportation."[90]

From the outset of the 2014 surge, CBP maintained primary responsibility for border security operations at and between ports of entry and, working with ICE, provided for the care of

motion, or otherwise in accordance with applicable precedent decisions of the Board of Immigration Appeals (BIA)."

[87] For more information, see CRS Report R43703, *Special Immigrant Juveniles: In Brief*.

[88] For more information, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*.

[89] U.S. Department of Homeland Security, "Statement by Secretary Johnson on Increased Influx of Unaccompanied Immigrant Children at the Border," press release, June 2, 2014; and The White House, Office of the Press Secretary, *Presidential Memorandum—Response to the Influx of Unaccompanied Alien Children Across the Southwest Border*, June 2, 2014.

[90] Ibid.

unaccompanied children in temporary DHS custody.[91] DHS coordinated with the Departments of Health and Human Services, State, and Defense, as well as the General Services Administration and other agencies, to ensure a coordinated and prompt response within the United States in the short term, and in the longer term to work with migrant-sending countries to undertake reforms to address the causes behind the recent flows.[92]

To manage the UAC influx, ORR relied upon its network of shelters operated by nonprofit organizations with experience providing UAC-oriented services (e.g., medical attention, education). HHS also coordinated with the Department of Defense (DOD), which temporarily made facilities available for UAC shelter at Lackland Air Force Base, Texas, Naval Base Ventura County, California, and Fort Sill, Oklahoma. Arrangements to house UAC at all three sites ended August 2014.[93] Subsequently, two other DOD locations, Holloman Air Force Base, New Mexico and Fort Bliss, Texas, were used to shelter UAC in early 2016 and in late 2016-early 2017, respectively.[94]

To provide children entering the immigration court system with legal representation during removal proceedings, EOIR partnered with the Corporation for National and Community Service (CNCS), a federal agency that administers AmeriCorps.[95] Together they created "Justice AmeriCorps" in 2015, a grant program that enrolled approximately 100 lawyers and paralegals as AmeriCorps members.[96] In FY2014, DOJ's Legal Orientation Program, tasked with providing legal orientation presentations to sponsors of unaccompanied children in EOIR removal proceedings, served over 12,000 custodians for children released from ORR custody.[97]

In June 2014, DHS initiated a program to work with the Central American countries on a public education campaign to dissuade UAC from attempting to migrate illegally to the United States and a range of other issues.[98] Additional Administration initiatives include partnering with Central American governments to combat gang violence, strengthening citizen security, spurring economic development, and supporting the reintegration and repatriation of returned citizens.[99]

In September 2014, the Obama Administration announced a new Central American Minors (CAM) refugee program to provide a safe, legal, and orderly alternative to U.S. migration that

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[91] As one of its missions, ICE works to dismantle organizations that smuggle UAC into the United States.

[92] U.S. Department of Homeland Security, "Statement by Secretary Johnson on Increased Influx of Unaccompanied Immigrant Children at the Border," press release, June 2, 2014.

[93] David Rogers, "Kid shelters at military posts to close," *Politico*, August 4, 2014.

[94] See archived CRS Insight IN10937, *History of Use of U.S. Military Bases to House Immigrants and Refugees*.

[95] For more information on the CNCS and AmeriCorps, see CRS Report RL33931, *The Corporation for National and Community Service: Overview of Programs and Funding*.

[96] Department of Justice and the Corporation for National and Community Service, "Justice Department and CNCS Announce New Partnership to Enhance Immigration Courts and Provide Critical Legal Assistance to Unaccompanied Minors," press release, June 6, 2014. The Justice AmeriCorps program was administered from January 1, 2015, to August 31, 2017.

[97] In 2010, DOJ's Office of Legal Access Programs established the Legal Orientation Program for Custodians of Unaccompanied Children (LOPC). The program's goals are "to inform the children's custodians of their responsibilities in ensuring the child's appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking, as provided under the Trafficking Victims Protection Reauthorization Act of 2008." The LOPC, a collaboration between EOIR, ORR, and nongovernmental partners, operates a national call center that provides scheduling assistance and basic legal information to UAC custodians.

[98] The White House, Office of the Press Secretary, "Fact Sheet: Unaccompanied Children from Central America," June 20, 2014.

[99] Ibid.

would not serve as a pathway for unaccompanied children to join undocumented relatives in the United States.[100] The program, targeting children from El Salvador, Guatemala, and Honduras, was meant to discourage them from migrating to the United States, by enabling at least some of them to be considered for refugee status at home. The Trump Administration terminated the CAM program in August 2017.[101]

Trump Administration Action

Actions by the Trump Administration regarding unaccompanied children have largely emphasized efforts to provide housing for unaccompanied children as well as reduce the number of adults migrating to the United States with children as "family units" in the past year.[102] They include increasing the use of temporary influx shelters in response to an increasing UAC caseload, sharing more sponsor information between ORR, CBP, and ICE, reclassifying children whose parents are prosecuted for illegal entry as UAC and housing them in ORR shelters, and proposing new regulations to expand the amount of time children can spend in detention beyond the current 20-day limit.

Increasing UAC Shelter Capacity

To respond to surges of unaccompanied children arriving at the Southwest border alone or as part of family units who were subsequently separated, ORR has employed temporary "influx care facilities"[103] to supplement its existing network of state-licensed shelters. These facilities tend to be considerably larger than standard ORR-supervised shelters and are typically opened on federally owned or leased properties (in which case, the facility is not subject to State or local child care licensing standards). To date, ORR has opened, and subsequently closed, three such shelters, in Tornillo, Texas (Tornillo shelter), Homestead, Florida (Homestead shelter), and Carrizo Springs, Texas. At the end of December 2018, ORR was housing more than 14,000 children in all of its shelters (including influx shelters),[104] an increase from a reported 9,200 children in January 2017.[105] As of July 31, 2019, ORR had an average of 9,338 children in its care, a maximum number of 15,897 beds, and an average occupancy rate of 70%.[106]

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[100] For background information on the CAM program, see archived CRS Report R44020, *In-Country Refugee Processing: In Brief*.

[101] For more information on the termination of the program and the current status of certain cases still affected, see U.S. Citizenship and Immigration Services, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors—CAM)," https://www.uscis.gov/CAM.

[102] For an overview of such trends, see CRS Report R45266, *The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy*, Appendix A.

[103] ORR defines "influx care facility" as "a type of care provider facility that is opened to provide temporary emergency shelter and services for unaccompanied alien children during an influx or emergency." U.S. Department of Health and Human Services, Office of Refugee Resettlement, "Children Entering the United States Unaccompanied: Guide to Terms," last updated January 8, 2019.

[104] Tal Kopan, "ICE arrested undocumented adults who sought to take in immigrant children," *San Francisco Chronicle*, December 10, 2018.

[105] Arelis R. Hernández, "Trump administration is holding record number of migrant youths," *Washington Post*, December 21, 2018; and AP, "Nearly 15,000 migrant children in federal custody jammed into crowded shelters," *CNBC*, December 19, 2018.

[106] U.S. Department of Health and Human Services, "Latest UAC Data—FY2019," September 6, 2019, https://www.hhs.gov/programs/social-services/unaccompanied-alien-children/latest-uac-data-fy2019/index.html.

Tornillo Shelter, Texas

Located 35 miles southeast of El Paso on the Mexico border, the Tornillo shelter operated from June 2018 until January 2019. It was run by a private firm, BCFS Health and Human Services (Emergency Management Division), a company known for providing emergency services following major disasters like Hurricane Katrina.[107] Even though some reported that Tornillo was opened in response to the demand for UAC shelter space prompted by the Trump Administration's zero tolerance policy,[108] HHS clarified that children separated as the result of border enforcement actions were specifically not sheltered at the Tornillo shelter.[109] BCFS officials reportedly expected that the shelter would remain open only for several weeks, but ORR extended that timeframe, as the number of apprehended unaccompanied children increased during the second half of 2018.[110] By September, conventional ORR shelters were reportedly reaching their maximum capacity, and older children were transferred to Tornillo just prior to their expected release to sponsors.[111]

Concerns of child welfare advocates centered on the shelter's size and remote location, the children's duration of stay,[112] and ORR's process for transferring the children to the facility.[113] In November 2018, HHS's OIG issued a memorandum in which it identified significant vulnerabilities regarding what it considered as insufficient personnel background checks and an insufficient number of mental health clinicians at Tornillo.[114] The following month, HHS responded to the OIG describing actions taken in response to the report's findings.[115]

In December 2018, in response to the growing number of UAC in ORR custody, as well as a reported request from shelter operator BCFS,[116] the Administration relaxed the requirements of its information collection and sharing policy with regard to potential UAC sponsors. (See "Information Sharing between ORR, ICE, and CBP" below). According to one news report, the

[107] Several news articles described Tornillo's infrastructure and living conditions in detail. See for example, Tanvi Misra, "CityLab Daily: The Life and Death of an American Tent City, *Citylab*, January 15, 2019.

[108] See for example, Arelis R. Hernández, "Inside a gigantic U.S. tent shelter for migrant teens," *Washington Post*, October 12, 2018. For more information on the zero tolerance policy, see CRS Report R45266, *The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy*.

[109] U.S. Department of Health and Human Services, "Unaccompanied Alien Children sheltered at Tornillo LPOE, Tornillo, Texas," Fact Sheet, updated December 26, 2018.

[110] Ibid.

[111] Caitlin Dickerson, "Migrant Children Moved Under Cover of Darkness to a Texas Tent City," *New York Times*, September 30, 2018.

[112] According to one news report, unaccompanied children spent an average of 25 days in the Tornillo shelter out of an average 59 total days in HHS custody. See Carmen Sesin, "'Difficult to watch': House Democrats tour housing for migrant children," *NBC News*, February 19, 2019.

[113] See, for example, Joshua Barajas and Amna Nawaz, "The Tornillo shelter for migrant children was supposed to close after 30 days. Here's why it's still open," *PBS News*, November 28, 2018; and Caitlin Dickerson, "Migrant Children Moved Under Cover of Darkness to a Texas Tent City," *New York Times*, September 30, 2018.

[114] U.S. Department of Health and Human Services, Office of Inspector General, *Memorandum: The Tornillo Influx Care Facility: Concerns About Staff Background Checks and Number of Clinicians on Staff (A-12-19-20000)*, November 27, 2018.

[115] Letter from Lynn A. Johnson, Assistant Secretary, U.S. Department of Health and Human Services, Administration for Children and Families, to Amy J. Frontz, Assistant Inspector General for Audit Services, U.S. Department of Health and Human Services, December 21, 2018.

[116] Robert Moore, "Tent City Operator's Request for Policy Shift Could Reduce the Mass Detention of Migrant Children," *Texas Monthly*, December 15, 2018.

number of children housed in all ORR-supervised shelters subsequently dropped substantially by mid-January.[117]

Homestead Shelter, Florida

The Homestead shelter is operated by Comprehensive Health Services Incorporated (CHSI), a subsidiary of Caliburn International Corporation. Located in Florida about 30 miles south of Miami, it is currently the largest UAC facility operating in the United States and the only one operated by a for-profit corporation. Like the former Tornillo shelter, it is located on federal land and is not subject to local or state regulations governing child shelters.[118]

HHS began using Homestead as a temporary shelter for unaccompanied children in June 2016 and sheltered approximately 8,500 children over approximately 10 months until it closed temporarily in April 2017.[119] In March 2018, the Homestead shelter reopened.[120] In February 2019, it reportedly added 1,000 beds in response to the closing of the Tornillo shelter.[121] From March 2018 to February 26, 2019, the shelter housed more than 6,300 unaccompanied children and oversaw 4,850 sponsor placements. As of February 26, 2019, Homestead was housing about 1,600 children who had spent an average of 58 days in the shelter.[122] According to HHS, Homestead contains 1,700 beds and can expand to as many as 2,350 beds.[123]

ORR maintains that the same policies and range of services available to unaccompanied children at its conventional ORR-supervised shelters were found at Homestead. Some news reports cited a congressional delegation who characterized conditions at the shelter as inhumane and unsuitable for children.[124] Other immigration observers refuted that characterization.[125]

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[117] Miriam Jordan, "Trump Administration to Nearly Double Size of Detention Center for Migrant Teenagers," *New York Times*, January 15, 2019.

[118] John Burnett, "Inside The Largest And Most Controversial Shelter For Migrant Children In The U.S.," *NPR*, February 13, 2019.

[119] *Miami Herald*, February 8, 2019. The article does not specify the date when the shelter reached full capacity.

[120] Several news reports suggest that Homestead was reopened without public notice. See for example, Jerry Iannelli, "Five Awful Stories About Miami's Child-Migrant Compound," *Miami New Times*, November 4, 2018. HHS maintains that it notified state and local community leaders about the reactivation of the Homestead site in the month prior to its opening. See U.S. Department of Health and Human Services, Administration for Children and Families, "Unaccompanied Alien Children Job Corps Site, Homestead, Florida," *Fact Sheet*, February 26, 2019 (hereinafter, ACF Fact Sheet).

[121] *Miami Herald*, February 8, 2019; and Miriam Jordan, "Trump Administration to Nearly Double Size of Detention Center for Migrant Teenagers," *New York Times*, January 15, 2019.

[122] ACF Fact Sheet, February 26, 2019. The average length of stay reported here differs from the average length of stay of 67 days reported by the *Miami Herald* and *NPR*, the latter citing comments by an HHS spokesperson. See John Burnett, "Inside The Largest And Most Controversial Shelter For Migrant Children In The U.S.," *NPR*, February 13, 2019; and *Miami Herald*, February 8, 2019. The 67-day figure may come from an earlier version of the ACF Fact Sheet dated February 13, 2019. See National Center for Youth Law, Center for Human Rights and Constitutional Law, and the University of California Davis School of Law Immigration Clinic, *The Flores Settlement Agreement & Unaccompanied Children in Federal Custody*, February 2019.

[123] ACF Fact Sheet, February 26, 2019. See also Miriam Jordan, "Trump Administration to Nearly Double Size of Detention Center for Migrant Teenagers," *New York Times*, January 15, 2019.

[124] See, for example, Carmen Sesin, "'Difficult to watch': House Democrats tour housing for migrant children," *NBC News*, February 19, 2019; and Angelina Chaplin, "Florida Detention Center Expands, Packing In Migrant Children 'Like Sardines'," *Huffington Post*, February 12, 2019.

[125] See, for example, Preston Huennekens, "Is the Homestead UAC Shelter Actually a Prison?" Center for Migration Studies, March 6, 2019.

On August 3, 2019, ORR announced that the Homestead shelter had been closed and that all children in it had been placed with sponsors or relocated to the network of state-licensed UAC shelters. As of this report date, there are no children residing in any influx care facility, although reportedly, the facility may open again.[126]

Carrizo Springs, Texas

On June 7, 2019, the Associated Press reported that ORR would be opening up a new temporary influx shelter in Carrizo Springs, Texas, about 120 miles southwest of San Antonio. The facility, which sits on government-leased land and once housed oil field workers, can reportedly house as many as 1,600 children.[127] It is operated by BCFS, the same privately run nonprofit organization that operated the Tornillo facility described above.[128] Initially, the facility was operating at substantially below capacity,[129] and less than a month after it opened, it was closed.[130]

Influx Shelters on U.S. Military Installations

As it did during the Obama Administration, HHS has again coordinated with DOD to explore and possibly open temporary influx shelter facilities on U.S. military installations. Based on the anticipated number of UAC referrals, HHS is again activating a facility at Fort Sill Army Base near Lawton, OK, as a temporary emergency influx shelter. The facility will have bed capacity for approximately 1400 children. As of the date of this report, ORR had not indicated when the facility would open.[131]

Information Sharing between ORR, ICE, and CBP

As noted, ORR tries to find sponsors, typically family members, for UAC to live with while they await their removal proceedings. For years, immigration enforcement advocates and some Members of Congress decried that an indeterminate but sizeable proportion of UAC sponsors were unauthorized aliens, and that ORR neither collected, nor shared with DHS, information on sponsors' legal status. Immigration advocates contended that such information sharing mandates would discourage the sponsorship of unaccompanied children.

In April 2018, ORR, ICE, and CBP entered into a memorandum of agreement (MOA) providing for the sharing of information from the time that UAC are referred by either CBP or ICE to ORR, through their time in ORR custody, and upon their release from ORR custody to a sponsor.[132]

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[126] Renuka Rayasam, "All migrant kids moved out of Homestead facility, administration says," *Politico,* August 3, 2019; and Monique O. Madan, "Homestead detention center for immigrant children expected to reopen as soon as October, *Miami Herald,* August 14, 2019. See also U.S. Department of Health and Human Services, Administration for Children and Families, "Unaccompanied Alien Child Shelter at Homestead Job Corps Site, Homestead, Florida," *Fact Sheet,* August 6, 2019

[127] Garance Burke, "US opens new mass facility in Texas for migrant children," *AP,* June 7, 2019.

[128] U.S. Department of Health and Human Services, Administration for Children and Families, "Unaccompanied Alien Children Sheltered at Carrizo Springs Site, Carrizo Springs, Texas," press release, July 22, 2019.

[129] Alicia A. Caldwell, "New Shelter for Migrant Teenagers Lacks Residents," *Wall Street Journal,* July 11, 2019.

[130] James Barragán, "Last group of migrant children to leave Carrizo Springs facility today—less than 1 month after it opened," *The Dallas Morning News,* July 25, 2019.

[131] U.S. Department of Health and Human Services, Administration for Children Youth, and Families, Legislative Affairs, email correspondence, June 13, 2019.

[132] Memorandum of Agreement Among the Office of Refugee Resettlement of the U.S. Department of Health and Human Services, and U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection of the U.S. Department of Homeland Security Regarding Consultation and Information Sharing in Unaccompanied Alien Children

Under the MOA, ORR agreed to collect and share with ICE and CBP information about unaccompanied children in their custody, such as, their arrests, unauthorized absences, death, abuse experienced, and violent behavior, as well as age determination findings and gang affiliation information. The MOA also mandated the sharing of information about potential sponsors and all adults living with them. Such information included citizenship, immigration status, criminal history, and immigration history.

According to the agreement, ORR would share with ICE this information as well as biographic and biometric (fingerprint) information about potential sponsors and their household members. In return, ICE would provide ORR with the summary criminal and immigration histories of the potential sponsors and all adult members of their households so that ORR could make more complete suitability determinations regarding the UAC sponsors.

The Trump Administration and immigration enforcement advocates described the policy as necessary to ensure the safety and well-being of children placed with sponsors.[133] Immigrant advocates contended that the new policy would increase the number of children that remain in federal custody while they seek immigration relief, increase detention costs, and extend family separation.[134] They also questioned the relevance of an adult's immigration status to a child's safe placement with a sponsor.[135]

After the policy was implemented, ICE began to arrest unauthorized aliens who came forward to sponsor unaccompanied children. From July through November 2018, ICE is reported to have arrested 170 potential sponsors—109 of whom had no previous criminal histories—and placed them in deportation proceedings.[136] Matthew Albence, a senior ICE official who testified before the Senate Homeland Security and Governmental Affairs Committee in September 2018, confirmed these activities and asserted that an estimated 80% of active UAC sponsors and family members living with them were residing in the country illegally.[137]

Some have linked the new information-sharing agreement with increases in the average number of days unaccompanied children spend in ORR custody.[138] During FY2015 and FY2016, unaccompanied children spent an average of 34 and 38 days in ORR custody, respectively.[139] In FY2017, that average increased to 48 days. In FY2018, the figure increased to 60 days, and for

Matters, April 13, 2018.

[133] See, for example, Andrew R. Arthur, "The Worst Provision in the Funding Bill: Think about the children," Center for Immigration Studies, February 16, 2019.

[134] See, for example, Melissa Hastings et al., "The ORR and DHS Information-Sharing Agreement and its Consequences," Justice for Immigrants, January 2019. Child welfare advocates have expressed grave concerns on how family separation impacts children. See, for example, American Academy of Pediatrics, Letter from Colleen A. Kraft, President, to The Honorable Kirstjen M. Nielsen, U.S. Secretary of Homeland Security, March 1, 2018.

[135] Tal Kopan, "ICE arrested undocumented adults who sought to take in immigrant children," *San Francisco Chronicle*, December 10, 2018.

[136] Ibid.

[137] Testimony of Matthew Albence, executive associate director of Immigration and Customs Enforcement, U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Implications of the Reinterpretation of the Flores Settlement Agreement for Border Security and Illegal Immigration Incentives*, 115th Cong., 2nd sess., September 18, 2018.

[138] See Tanvi Misra, "CityLab Daily: The Life and Death of an American Tent City," *Citylab*, January 15, 2019; and National Center for Youth Law, Center for Human Rights and Constitutional Law, and the University of California Davis School of Law Immigration Clinic, *The Flores Settlement Agreement & Unaccompanied Children in Federal Custody*, February 2019.

[139] Data on annual average days in ORR custody from FY2015-FY2018 provided to CRS by Office of Refugee Resettlement, Office of Legislative Affairs and Budget, February 12, 2019.

the first three months of FY2019, it stood at 89 days[140] before declining to 47 days as of August 2019.[141] Other factors, such as the number of children that require shelter, may affect the time unaccompanied children spend in ORR custody, making it difficult to attribute changes in average ORR custody time solely to the information-sharing MOA between ORR and DHS.

As noted above, in response to concerns about the increased average length of time that UAC are spending in ORR custody, as well as a reported request from shelter operator BCFS,[142] the Administration in December 2018 relaxed some requirements of its information collection and sharing policy. The new policy, which remains current, continues to require background checks for all members of the sponsor's household over age 18, but it limits the collection and sharing with DHS of fingerprint data to sponsors only, not other adults in the sponsor's household.[143]

Zero Tolerance Immigration Enforcement Policy

On May 7, 2018, DOJ implemented a "zero tolerance" enforcement policy for persons who entered the United States illegally between ports of entry. Under the zero tolerance policy, DOJ sought to prosecute all adult aliens apprehended crossing the border illegally, without making exceptions for asylum seekers or migrants with minor children. Close to 3,000 children are known to have been separated as the result of the zero tolerance policy.[144] DOJ's policy represented a change in the level of enforcement of an existing statute rather than a change in statute or regulation.[145]

Criminally prosecuting adults (regardless of nationality) makes them subject to detention in federal criminal adult detention facilities. Under the zero tolerance policy, when a parent entered the U.S. illegally with a minor and was detained in criminal detention, DHS treated the child as an unaccompanied alien child and transferred him or her to ORR custody. Once the parent's criminal prosecution for illegal entry or reentry ended and any sentence was served, the parent could be reunited with the child.

For families who arrived at a U.S. port of entry and request asylum, the process was different. While DOJ and DHS have broad statutory authority to detain alien adults,[146] alien children must be detained according to guidelines established in the Flores Agreement, the HSA, and the TVPRA described above. A 2015 judicial ruling held that children could remain in family

[140] See *Miami Herald*, February 8, 2019.

[141] *ORR UAC Fact Sheet*.

[142] Robert Moore, "Tent City Operator's Request for Policy Shift Could Reduce the Mass Detention of Migrant Children," *Texas Monthly*, December 15, 2018.

[143] U.S. Department of Health and Human Services, Administration for Children and Families, "Unaccompanied Alien Children Program," Fact Sheet, December 2018.

[144] U.S. Department of Health and Human Services, "HHS Issues Statement on Ms. L, et al., Status Report Regarding Plan for Compliance for Remaining Class Members," press release, July 13, 2018. This figure was also reported in several news reports including Dan Diamond, "HHS says hundreds more migrant kids may have been separated than earlier count," *Politico*, July 5, 2018; and Caitlin Dickerson, "Trump Administration in Chaotic Scramble to Reunify Migrant Families," *New York Times*, July 5, 2018.

[145] Prior Administrations prosecuted illegal border crossings relatively infrequently. When they did engage in concerted efforts to crack down on this activity, they generally did not prosecute asylum seekers or families. Prior administrations also separated arriving migrant parents from their accompanying children (and treated the minors as unaccompanied children) in more limited circumstances, specifically where the agency had concerns about the legitimacy of the family relationship or the safety of the child. Ibid.

[146] The majority of aliens arriving without proper documentation who claim asylum are held until their "credible fear hearing," but some asylum seekers are held until their asylum claims have been adjudicated. For background information, see CRS Report RL32369, *Immigration-Related Detention*.

immigration detention (as distinct from immigration detention for single adults or ORR shelters for unaccompanied children) for no more than 20 days.[147] If parents are not released with them, DHS reclassifies the children as UAC and transfers them to ORR for care and custody.

Following mostly critical public reaction, President Trump issued an executive order on June 20, 2018, mandating that DHS maintain custody of alien families during the pendency of any criminal trial or immigration proceedings.[148] CBP subsequently stopped referring most illegal border crossers to DOJ for criminal prosecution. ICE continued, family detention space permitting, to detain family units for up to 20 days. A federal judge then issued an injunction prohibiting family separation and requiring that all separated children be promptly reunited with their families.[149]

Reuniting families presented a considerable challenge to ORR, CBP, and ICE. Immigrant advocates criticized the Administration's efforts at family reunification for what some described as an uncoordinated implementation process that lacked an effective plan to reunify separated families.[150] Reports subsequently issued by the OIG for both DHS and HHS indicated that CBP had omitted information about the separated children's family members after classifying them as unaccompanied alien children and referring them to ORR, and described limitations with its information technology system for tracking such children.[151] The resulting delay in reunifying families meant that two to three thousand additional children spent an indeterminate amount of additional time in ORR shelters.[152] HHS reprogrammed or transferred $385 million from other HHS programs to ORR, reportedly to cover the additional expenses stemming from the zero tolerance policy.[153]

Proposed Regulations to Replace the Flores Settlement Agreement

On September 7, 2018, DHS and HHS jointly published proposed regulations on the apprehension, processing, care, and custody of alien children that would replace the Flores Agreement.[154] The proposed regulations mainly address detention for children within family units

[147] The 20-day period was established in order to give families enough time to receive a "credible fear" determination from USCIS for whether or not their asylum application had sufficient legitimacy to be heard in front of an immigration judge. For more information on how this time limit was established, see CRS Report R45297, *The "Flores Settlement" and Alien Families Apprehended at the U.S. Border: Frequently Asked Questions*.

[148] Executive Order 13841, *Affording Congress an Opportunity to Address Family Separation*, 83 *Federal Register* 29435, June 25, 2018.

[149] See *Ms. L v. ICE*, case 3:18-cv-00428-DMS-MDD, Document 83, (S.D. Cal. June 26, 2018).

[150] See, for example, Kevin Sieff, "The chaotic effort to reunite immigrant parents with their separated kids," *Washington Post*, June 21, 2018; and Jonathan Blitzer, "The Government has no plan for reuniting the immigrant families it is tearing apart," *New Yorker*, June 18, 2018.

[151] U.S. Department of Homeland Security, Office of Inspector General, "Special Review—Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy," OIG-18-84, September 27, 2018; and U.S. Department of Health and Human Services, Office of Inspector General, "Separated Children Placed in Office of Refugee Resettlement Care," HHS-OIG Issue Brief, OEI-BL-18-00511, January 2019.

[152] See Ian Lovett and Louise Radnofsky, "Amid Chaos at Border, Some Immigrant Families Reunite," *Wall Street Journal*, June 24, 2018; Ritu Prasad, "Undocumented migrant families embark on chaotic reunion process," *BBC*, June 25, 2018; Kaitlyn Schallhorn, "What Trump's 'zero-tolerance' immigration policy means for children separated from families at border, *Fox News*, June 19, 2018; and Caitlin Dickerson, "Trump Administration in Chaotic Scramble to Reunify Migrant Families," *New York Times*, July 5, 2018.

[153] H.Rept. 116-62, p. 11.

[154] U.S. Department of Health and Human Services and U.S. Department of Homeland Security, "Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children," 83 *Federal Register* 45486-

but also contain some provisions affecting unaccompanied children. While ostensibly adhering to the basic purpose of the Flores Agreement "in ensuring that all juveniles in the government's custody are treated with dignity, respect, and special concern for their particular vulnerability as minors," the rule would amend current licensing requirements for family residential centers to allow families to be detained together during the full length of their immigration proceedings. This rule would thereby allow ICE to overcome the 20-day immigration detention restriction for families that was imposed as part of the Flores Agreement. The final rule was issued on August 23, 2019,[155] and lawsuits were subsequently filed to prevent its enactment.[156]

Opponents of the proposed rule have criticized it for potentially allowing children to be indefinitely detained with their parents in unsafe and inappropriate conditions.[157] Supporters contend that, in its current form, the Flores Agreement incentivizes unlawful migration to the United States and the filing of meritless asylum claims.[158]

Congressional Action

When UAC apprehensions reached a then-record in 2014, policymakers initially focused on whether the various agencies responding to it had adequate funding. As the surge began to wane, congressional attention shifted to mechanisms to prevent its recurrence. In recent years, congressional focus has emphasized funding ORR operations. ORR's UAC program is one line item in its Refugee and Entrant Assistance account.[159] Legislative proposals to either limit the number of UAC admissions or facilitate their entry and care have been introduced in the House and the Senate but none have been passed into law. Described below are funding requests, legislative action regarding funding, and executive branch budget execution, including budgetary transfers, reprogramming of funds, and reallocations since FY2015.

FY2015

In its FY2015 budget released in March 2014, the Obama Administration did not request funding increases to address the UAC surge. However, on May 30, 2014, the Office of Management and Budget (OMB) updated its cost projections for addressing the growing UAC population. It requested $2.3 billion for FY2015 for ORR's UAC program and $166 million for DHS for CBP overtime, contract services for care and support of UAC, and transportation costs.[160]

45534, September 7, 2018.

[155] U.S. Department of Homeland Security and U.S. Department of Health and Human Services, "Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children," 84 *Federal Register* 44392-44535, August 23, 2019.

[156] Priscilla Alvarez, "Lawyers in Flores case seek to block indefinite detention of migrant families," *CNN*, August 30, 2019; and State of California Department of Justice, "Attorney General Becerra Leads Multistate Lawsuit Opposing the Trump Administration's Rule Allowing Prolonged Detention of Children," Press Release, August 26, 2019.

[157] See, for example, Philip Wolgin, "The High Costs of the Proposed Flores Regulation," Center for American Progress, October 19, 2018.

[158] See, for example, Matthew Sussis, "The History of the Flores Settlement: How a 1997 agreement cracked open our detention laws," Center for Immigration Studies, February 11, 2019.

[159] In addition to the UAC program, the Refugee and Entrant Assistance Program administers the following programs: Transitional/Cash and Medical Services, Victims of Trafficking, Social Services, Victims of Torture, Preventive Health, and Targeted Assistance. For additional information, see CRS Report RL31269, *Refugee Admissions and Resettlement Policy*.

[160] Executive Office of the President, Office of Management and Budget, Memorandum to Representative Nita Lowey, May 30, 2014.

On July 8, 2014, the Administration requested a $3.7 billion supplemental appropriation for FY2015, much of which was directly related to addressing the UAC surge The request included $433 million for CBP, $1.1 billion for ICE, $1.8 billion for HHS's UAC program, $64 million for DOJ, and $300 million for the Department of State (DOS).[161]

In December 2014, the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235) provided nearly $1.6 billion for ORR's Refugee and Entrant Assistance Programs for FY2015, with the expectation that most of these funds would be directed toward the UAC program. In addition, P.L. 113-235 included a new provision allowing HHS to augment appropriations for the Refugee and Entrant Assistance account by up to 10% through transfers from other discretionary HHS funds.[162]

In March 2015, the Department of Homeland Security Appropriations Act, 2015 (P.L. 114-4) provided $3.4 billion to ICE for detection, enforcement, and removal operations, including transportation of unaccompanied alien children. The act required that DHS estimate the number of UAC apprehensions expected in the budget year and the number of necessary agent or officer hours and related costs. It also provided for budgetary flexibility through the optional reprogramming of funds.[163]

FY2016

In its FY2016 budget, the Obama Administration requested contingency funding, in addition to base funding, for several agencies in the event of another surge of unaccompanied children. For ORR's UAC program, the Administration requested $948 million in base funding (the same as FY2015) and $19 million in contingency funding.[164] Congress passed the Consolidated Appropriations Act, 2016 (P.L. 114-113) which met the base funding request but appropriated no monies for contingency funding.[165]

For FY2016 DHS funding, the Administration requested $203.2 million in base funding and $24.4 million in contingency funding for CBP for costs associated with the apprehension and care of unaccompanied children.[166] The Administration requested $2.6 million in contingency funding for ICE for transportation costs associated with UAC apprehensions if such apprehensions

[161] The White House, "Fact Sheet: Emergency Supplemental Request to Address the Increase in Child and Adult Migration from Central America in the Rio Grande Valley Areas of the Southwest Border," press release, July 8, 2014.

[162] This paragraph is excerpted from CRS Report R43967, *Labor, Health and Human Services, and Education: FY2015 Appropriations.*

[163] Section 571 of the act permitted the DHS Secretary to reprogram funds within CBP and ICE and transfer such funds into the two agencies' "Salaries and Expenses" accounts for the care and transportation of UAC. Section 572 of the act allowed for State Homeland Security Program and Urban Area Security Initiative grants that are awarded to states along the Southwest border to be used by recipients for costs or reimbursement of costs for providing humanitarian relief to unaccompanied children.

[164] U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2016, Justification of Estimates for Appropriations Committees,* p. 21.

[165] Ibid, p.8.

[166] The total CBP contingency request was for $134.5 million for costs associated with the apprehension and care of up to 104,000 UAC. Based on the anticipated low probability of such a high number of UAC apprehensions, the FY2016 budget scored the requested increase at $24.4 million.

exceeded those in FY2015.[167] Neither the Senate[168] nor the House[169] committee-reported FY2016 DHS appropriations bills would have funded these requests. The Administration requested an additional $50 million (two-year funding spread over FY2016 and FY2017) for EOIR to expand a program to provide legal representation to UAC.[170] Congress passed the Consolidated Appropriations Act, 2016 (P.L. 114-113) which did not provide this additional EOIR funding request. In the law, Congress provided CBP with $204.9 million in base funding but did not provide the contingency funding requested. Congress provided ICE with $24.3 million in UAC transportation funding but did not fund the contingency transportation request.[171]

FY2017

For FY2017, the Trump Administration requested $1.3 billion for ORR for unaccompanied children. This UAC program request included $1.2 billion in base funding. It also included contingency funding, which, if triggered by larger than expected caseloads, would start at $95 million and could expand to $400 million.[172] For UAC operations within DHS, the Administration requested $13.2 million for transportation and removal activities, including $3 million in contingency funding; and $217.4 million for CBP, including $5.4 million in contingency funding.

Congress, in turn, passed two continuing resolutions (CRs) to fund ORR for FY2017. Congress first passed the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (P.L. 114-223), which funded ORR, ICE, and CBP from October 1, 2016, through December 9, 2016, at the same level and under the same conditions as FY2016, less an across-the-board reduction of 0.496%. Under the terms of the CR, HHS retained its authority from the 2016 bill (P.L. 114-113) to augment this account by up to 10% using transfers from other HHS accounts. HHS reportedly used this authority to transfer $167 million into the account in November 2016, due to a surge in the UAC caseload.[173]

Prior to congressional consideration of a second CR, the Administration requested that any new CR include a provision providing a higher operating level for the Refugee and Entrant Assistance account. This stemmed from an increased caseload resulting from the growth in the number of unaccompanied children from Central American countries apprehended at the Southwest border. The Administration requested funding for the account at an annual rate of $3.9 billion, of which $2.9 billion would be used for unaccompanied children. However, the Administration separately

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[167] Base funding for ICE to transport UAC was not separated out from other ICE transportation activities within its budget. The total ICE contingency request was for $27.6 million for costs associated with transportation of up to 104,000 UAC. Based on the anticipated low probability of such a high number of UAC requiring such transportation, the FY2016 budget scored the requested increase at $2.6 million.

[168] U.S. Congress, Senate Committee on Appropriations, Subcommittee on Department of Homeland Security, *Department of Homeland Security Appropriations Bill, 2016*, 114th Cong., 1st sess., S.Rept. 114-68.

[169] U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, *Department of Homeland Security Appropriations Bill, 2016*, 114th Cong., 1st sess., H.Rept. 114-215.

[170] U.S. Department of Justice, *FY 2016 Budget and Performance Summary*, Administrative Review and Appeals, Executive Office for Immigration Review (EOIR).

[171] See U.S. Department of Homeland Security, *FY2017 Congressional Budget Justification*.

[172] U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2017, Justification of Estimates for Appropriations Committee*, p. 237.

[173] Letter from Sylvia M. Burwell, Secretary of Health and Human Services, to the Honorable Roy Blunt, Chairman of the Labor, Health and Human Services, Education, and Related Agencies Subcommittee of the Senate Committee on Appropriations, November 9, 2016, provided by HHS to CRS. The general HHS transfer authority provision is located in Division H, Title II, Section 205 of the Consolidated Appropriations Act, 2016 (P.L. 114-113).

noted that it might be possible to meet caseload demands at a lower level than requested, indicating that at a minimum this would require $500 million for the Refugee and Entrant Assistance account, of which $430 million would be used for unaccompanied children, as well as additional transfer authority in the event of higher than anticipated costs.[174]

Congress then passed a second FY2017 CR, the Further Continuing and Security Assistance Appropriations Act, 2017 (P.L. 114-254), which funded most federal agencies through April 28, 2017.[175] It funded ORR programs at the same level and under the same conditions as in FY2016, minus an across-the-board reduction of 0.1901%.[176] However, this CR also contained a special provision authorizing HHS to transfer up to $300 million to fund ORR programs dedicated to unaccompanied children as of February 1, 2017.[177] After March 1, 2017, if the UAC caseload for FY2017 exceeded by 40% or more the UAC caseload for the comparable period in FY2016, the CR appropriated up to an additional $200 million in new funding.

Congress subsequently passed the Consolidated Appropriations Act, 2017 (P.L. 115-31), which funded most federal agencies for the remainder of FY2017. It funded ORR programs at the same level and under the same conditions as in FY2016. P.L. 115-31 rescinded the provision in P.L. 114-254 to provide up to $200 million in new funding if the UAC caseload met the conditions described above. Ultimately, final funding approved for ORR's unaccompanied alien children program for FY2017, including transfers, totaled $1.4 billion.[178]

FY2018

For FY2018, the Trump Administration requested $948 million for ORR's UAC program. The request included an option to augment appropriations for the Refugee and Entrant Assistance account by up to 10% through transfers from other discretionary HHS funds. The request excluded contingency funding provisions found in several previous years' requests.[179]

Congress responded by passing the Consolidated Appropriations Act, 2018 (P.L. 115-141), which funded the Refugee and Entrant Assistance account at $1.9 billion. Transfers permitted by Congress within HHS to this account totaled $186 million. Within the account, funding for the Unaccompanied Alien Children program was increased to $1.3 billion (+$355 million relative to FY2017).[180] Final actual spending for the UAC program for FY2018, including permissible transfers and reprogramming, was $1.6 billion.[181]

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[174] The Administration's anomaly requests for the second CR were based on the assumption that the CR would run through the end of March 2017, one month less than the duration of the CR that was ultimately enacted.

[175] P.L. 114-223.

[176] P.L. 114-254, §101(a)(2).

[177] P.L. 114-254, §170. The CR specifies that this transfer comes from the HHS Nonrecurring Expenses Fund (NEF). The NEF was created by the Consolidated Appropriations Act, 2008 (P.L. 110-161, Division G, Title II, §223) to enable the HHS Secretary to collect certain unobligated balances of expired discretionary funds appropriated to HHS from the General Fund. Funds transferred into the NEF typically support capital acquisitions across HHS, such as facilities infrastructure and information technology. The FY2017 CR also includes a provision rescinding $100 million from the NEF (see §170(d).

[178] Total FY2017 budget authority included $466,590,000 transferred from other parts of HHS. U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2019, Justification of Estimates for Appropriations Committee*, p. 67.

[179] U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2018, Justification of Estimates for Appropriations Committee*, pp. 11-45.

[180] See CRS Report R45083, *Labor, Health and Human Services, and Education: FY2018 Appropriations*, p. 29.

[181] U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2020,*

FY2019

For FY2019, the Trump Administration requested $1.0 billion for ORR's UAC program.[182] The Administration further requested the option to augment appropriations for the Refugee and Entrant Assistance account by up to 10% through transfers from other discretionary HHS funds. The budget also created a $200 million contingency fund if caseloads met certain conditions.

Congress responded by passing the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019 (P.L. 115-245), which funded HHS's Refugee and Entrant Assistance account at $1.9 billion. Within the account, funding for the Unaccompanied Alien Children program was $1.3 billion, the same as for FY2018.[183]

On May 17, 2019, OMB notified Congress that it anticipated a budget shortfall for the UAC program of $2.9 billion because of a 57% increase in the number of UAC referrals to ORR compared to the same time period during the previous year. The notification indicated that HHS had already reallocated $286 million to the UAC program using the HHS Secretary's transfer authority pursuant to P.L. 115-245 and had reprogrammed $99 million within the Refugee and Entrant Assistance account.[184] Congress responded by passing the Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019 (P.L. 116-26) which contained nearly $2.9 billion in emergency-designated appropriations for the Refugee and Entrant Assistance account. These funds were primarily intended to support the growing demands placed on the UAC program. Among the bill's many provisions, it required HHS to reverse any reprogramming within the account that had been carried out pursuant to the OMB notification.

FY2020

For FY2020, the Trump Administration has requested $1.3 billion, the same as the FY2019 appropriation. The Administration also requests transfer authority to allow additional funding of up to 20% of the appropriated amount into the account which is above the 15% maximum that Congress provided in FY2019. The budget also includes a request for a mandatory contingency fund capped at $2.0 billion over three years, probabilistically scored at $738 million, if caseload trends meet certain conditions.[185]

H.R. 2740, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2020, recommends appropriating $1.8 billion for ORR's UAC program, $500 million above the FY2019 enacted and FY2020 budget request levels.[186]

Justification of Estimates for Appropriations Committee, p. 11(PDF).

[182] U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2019, Justification of Estimates for Appropriations Committee*, pages 67-71.

[183] U.S. Congress, Senate Committee on Appropriations, Subcommittee on Departments of Labor, Health and Human Services, and Education, and Related Agencies, *Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 2019*, 115th Cong., 2nd sess., June 28, 2018, S.Rept. 115-289; and U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2020, Justification of Estimates for Appropriations Committee*, p. 15.

[184] Report and Notice of Anticipated Deficiency, Letter from Russell T. Vought, Acting Director, Office of Management and Budget, to The Honorable Nancy Pelosi, Speaker of the House of Representatives, May 17, 2019.

[185] U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2020, Justification of Estimates for Appropriations Committee*, pp.57-58.

[186] H.Rept. 116-62, pp. 144-145.

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