Detention and Release of Unaccompanied Children
Who is a UC?
- Statistics
- Root Causes: crisis in Central America

What happens when they arrive in the US?
- Current system for apprehension, processing
- Who’s who in immigration

What are their rights?
- “Hieleras” & civil rights
- Flores Settlement

How does reunification work?
- What are the requirements for sponsors?
- How does a child find an attorney?
Who is an Unaccompanied Child (UC)?

"Unaccompanied Alien Child" (UAC) defined by the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA):

- Under 18 years of age
- No lawful immigration status
- No parent or legal guardian in the U.S. available to provide care and physical custody

A child who enters the U.S. without a valid entry document and who was not accompanied by a parent or legal guardian.
Staggering Numbers

Figure 1. U.S. Apprehensions of Unaccompanied Children from the Northern Triangle of Central America: FY2009-FY2016

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>All Other Nations</th>
<th>El Salvador</th>
<th>Guatemala</th>
<th>Honduras</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>3,304</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>4,444</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>2011</td>
<td>3,933</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>2012</td>
<td>10,146</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>20,715</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>51,705</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>28,387</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>18,558</td>
<td></td>
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</tr>
</tbody>
</table>


Notes: 2016 figure includes apprehensions through the first five months of the fiscal year (October 1, 2015-February 29, 2016). The vast majority of children apprehended who are not from El Salvador, Guatemala, or Honduras are Mexican nationals.
Apprehension

Agency must transfer an unaccompanied child (except in exceptional circumstances) to ORR within 72 hours of determining UAC status. (TVPRA 2008)
“Hieleras” and Civil Rights
Placement at ORR Facility: ORR Shelters for Unaccompanied Children
What happens at the ORR shelters?

Placement at ORR facility within 72 hours of apprehension by CBP

Assessment: biographic intake, medical exam, mental health evaluation

Know Your Rights presentation, Legal Screening

Identify sponsor and complete reunification

Child released to the sponsor

Child is referred to a Legal Service Provider
ORR Custody: Assessment: intake, medical exam, mental health evaluation, access to education

Four different types of facilities

- Immigration holding
- Adult detention
- Adult with child
- Children’s shelter

Services in children’s shelters subject to Flores v. Reno settlement agreement

- Least restrictive setting possible
- More age appropriate settings, better access to health services (incl. mental health evaluation), education, and access to legal representation
Legal Services While Child is Detained

Know Your Rights presentations (KYR)

Legal screenings

“Friend of the court” assistance in Immigration Court

Child advocate program:
• The Young Center provides child advocates to exceptionally vulnerable UACs by trained child advocates to make best interest recommendations

Legal orientation for sponsors program:
• Provides sponsors with basic information about the immigration system and their responsibilities.
Reunification Requirements

Release from ORR custody – 5 Options:

- Reunification
- Transfer to Long Term Foster Care / Unaccompanied Refugee Minor Program
- Turns 18 – either release on recognizance or transfer to DHS adult custody
- Voluntary Departure
- Deportation

Documents and processes that ORR Requires:

Family Reunification Application: [Image]

Sponsor Care Agreement: [Image]
ORR considers the following factors, among others, when evaluating family members and other potential sponsors:

“The sponsor’s **plan to provide adequate care, supervision, access to community resources, and housing.**

The sponsor’s **strengths, resources, and mitigating factors** in relation to any risks or special concerns of the child or sponsor, such as a criminal background, history of substance abuse, mental health issues, or domestic violence and child welfare concerns.”

Additionally, ORR conducts individual home studies and checks state criminal history on a case by case basis.

Source: *Children Entering the United States Unaccompanied: Section 2 Safe and Timely Release from ORR Care*  
Published: January 30, 2015
Where do the children go?

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>#Released*</th>
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<tbody>
<tr>
<td>CA</td>
<td>Los Angeles</td>
<td>3,217</td>
</tr>
<tr>
<td>FL</td>
<td>Miami-Dade</td>
<td>1,203</td>
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<tr>
<td>FL</td>
<td>Palm Beach</td>
<td>1,148</td>
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<tr>
<td>MD</td>
<td>Prince George’s</td>
<td>1,281</td>
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<td>NY</td>
<td>Nassau</td>
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<td>NY</td>
<td>Suffolk</td>
<td>1,322</td>
</tr>
<tr>
<td>TX</td>
<td>Harris</td>
<td>3,144</td>
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<tr>
<td>TX</td>
<td>Dallas</td>
<td>1,001</td>
</tr>
<tr>
<td>VA</td>
<td>Fairfax</td>
<td>1,176</td>
</tr>
</tbody>
</table>

*As of end of Aug. FY2016 YTD
What happens after the child is released?

- Sponsors are **required to care for the child**, including enrolling the child in school.
- The child **must attend hearings** before the Immigration Court.
- Some may qualify for **humanitarian-based immigration relief** and can obtain direct representation.
Post release services: ORR Legal Access Project

Child is released to sponsor → A referral is made via Vera to an LSP in the city where child/sponsor live → LSP sets up an appointment with child and sponsor to screen for potential legal relief

Representation may be undertaken → Representation includes appearances and filings at Immigration Court, State Court (if necessary), and before USCIS → Representation does not include direct payment of filing fees and other expenses
QUESTIONS & CONTACT INFO

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