

**Statement for the Record**

**Kids in Need of Defense (KIND)**

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**on**

**“Reviewing the Administration’s Unaccompanied Children Program”**

**House Committee on Appropriations**

**Subcommittee on Labor, Health and Human Services, Education, and Related Agencies**

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Kids in Need of Defense (KIND) was founded by the Microsoft Corporation and the United Nations Refugee Agency (UNHCR) Special Envoy Angelina Jolie, and is the leading national organization that works to ensure that no refugee or immigrant child faces immigration court alone. We do this in partnership with 585 law firms, corporate legal departments, law schools, and bar associations, which provide pro bono representation to unaccompanied children referred to KIND for assistance in their deportation proceedings. KIND has served more than 18,000 children since 2009, and leveraged approximately \$250 million in pro bono support from private sector law firms, corporations, law schools and bar associations. KIND also helps children who are returning to their home countries through deportation or voluntary departure to do so safely and to reintegrate into their home communities. Through our reintegration pilot project in Guatemala and Honduras, we place children with local nongovernmental organization partners, which provide vital social services, including family reunification, school enrollment, skills training, and counseling. KIND also engages in broader work in the region to address root causes of child migration, such as sexual- and gender-based violence. Additionally, KIND advocates to change law, policy, and practices to improve the protection of unaccompanied children in the United States, and is working to build a stronger regional protection framework throughout Central America and Mexico.

**Policies Affecting Children in ORR Custody**

Nearly all of the children and minors who receive legal services through KIND are at some point detained in the custody of the U.S. Department of Health and Human Service’s Office of Refugee Resettlement (ORR). Many of these children have fled their countries of origin because of violence, abandonment, and other unsafe situations, and they face significant challenges upon arriving to the U.S., including healing from a history of trauma, overcoming language and educational barriers, and navigating the immigration system. The quality and scope of care received from ORR and the length of time spent in federal custody can have a profound impact on a child’s well-being and ability to make a claim for humanitarian protection.

Federal law and authority, including the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)<sup>1</sup> and the *Flores* Settlement Agreement, provide for the prompt release of unaccompanied children from federal custody to the care of sponsors in the community. The release of children from detention to community and home-based care is consistent with the best interests of children and also facilitates access to critical legal and social services and the child's meaningful participation in immigration proceedings.

KIND is concerned that recent policies, including a Memorandum of Agreement (MOA) between ORR and the Department of Homeland Security (DHS) related to information sharing, have led to prolonged detention and traumatization of children while doing little to improve child welfare and safety. Such policies have also had a dramatic impact on the number of children in ORR care and have resulted in the use of costly emergency influx facilities with limited services, *despite* relatively steady arrival numbers of unaccompanied children at the border. KIND is deeply concerned that in addition to imposing significant and unnecessary costs, the MOA and other policies are undermining the ability of children to access humanitarian protection for which they are eligible. Consequently, children may be returned to harm, danger or death in their countries of origin. Such a result not only runs counter to congressional intent as laid out in the Homeland Security Act of 2002 (HSA) and TVPRA, but to ORR's very mission of child welfare.

### **Memorandum of Agreement between ORR and DHS**

The HSA assigns ORR responsibility for “coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status.”<sup>2</sup> The TVPRA clarifies that ORR is to “promptly [place children] in the least restrictive setting that is in the best interest of the child.”<sup>3</sup> This requirement derives from the longstanding *Flores* Settlement Agreement (FSA), which provides that children should be placed in the “least restrictive setting” in their best interests,<sup>4</sup> and directs that parents and legal guardians receive priority among potential sponsors, who may also include other immediate relatives, distant relatives, or unrelated individuals.<sup>5</sup>

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<sup>1</sup> The William Wilberforce Trafficking Victims Protection Reauthorization Act, Pub. L. No. 110-457, 122 Stat. 5044 (2008).

<sup>2</sup> The Homeland Security Act, Pub. L. No. 107-296, 116 Stat. 2135 § 462(b)(1)(A) (2002).

<sup>3</sup> 8 U.S.C. § 1232(c)(2)(A) (2013).

<sup>4</sup> Stipulated Settlement Agreement, *Flores v. Reno*, No. CV 85-4544- RJK(Px) (C.D. Cal. Jan. 17, 1997), available at

[https://cliniclegal.org/sites/default/files/attachments/flores\\_v.\\_reno\\_settlement\\_agreement\\_1.pdf](https://cliniclegal.org/sites/default/files/attachments/flores_v._reno_settlement_agreement_1.pdf) [hereinafter *Flores* Settlement Agreement]. The *Flores* Settlement Agreement is the result of a class action against the government by a class consisting of all immigrant children detained in custody of the government. *Id.* at ¶ 10. This binding agreement sets standards for the detention and release of immigrant children to sponsors. *See id.* at ¶ 9.

<sup>5</sup> *Id.* at ¶ 14; 8 U.S.C. § 1232(c); *Sponsors and Placement: Release of Unaccompanied Alien Children to Sponsors in the U.S.*, ORR, <https://www.acf.hhs.gov/orr/about/ucs/sponsors> (last visited Sept. 23, 2018); U.S. Dep't of Health and 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 (July 2017) (“ORR releases most children to their parents or an immediate relative.”).

In accordance with these laws, ORR evaluates potential sponsors of unaccompanied children for their ability to provide for a child’s safety and well-being<sup>6</sup> and to ensure the child’s appearance at immigration proceedings.<sup>7</sup> ORR maintains numerous policies and procedures for evaluating the suitability of potential sponsors. These typically include: (i) the identification of potential sponsors; (ii) the potential sponsor’s submission of a Family Reunification Application; (iii) the evaluation of a potential sponsor’s suitability, including verification of identity and relationship to the child; (iv) fingerprinting and background checks, where applicable; and (v) in some cases, home studies.<sup>8</sup>

Although ORR has received information about a potential sponsor’s immigration status since 2005, it has not until recently shared immigration status information with other agencies for the explicit purpose of immigration enforcement, as immigration status typically is not relevant to evaluating whether the sponsor can adequately care for a child.<sup>9</sup> Instead, ORR’s policy has been to enable “the release of unaccompanied alien children (UAC) to undocumented sponsors, in appropriate circumstances and subject to certain safeguards.”<sup>10</sup> Rather than disqualifying potential sponsors, immigration status information has previously only been used “to ensure the safety and well-being of the child by making sure that there is an adequate care plan in place that takes all relevant aspects of the sponsor’s situation into consideration.”<sup>11</sup>

In the summer of 2017, however, U.S. Immigration and Customs Enforcement (ICE) began using information gathered by ORR to initiate enforcement against sponsors—identifying individuals for enforcement based on their role as the designated or potential caretakers of unaccompanied children.<sup>12</sup> ICE arrested more than 400 people in its initiative targeting sponsors for smuggling.<sup>13</sup> However, news reports indicated that the majority of those arrested were not

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<sup>6</sup> 8 U.S.C. § 1232(c)(3)(A) (2013). (“[A]n unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child’s physical and mental well-being. Such determination shall, at a minimum, include verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.”).

<sup>7</sup> 6 U.S.C. § 279(b)(2)(A) (2008).

<sup>8</sup> *Id.*

<sup>9</sup> *Sponsors and Placement: Release of Unaccompanied Alien Children to Sponsors in the U.S.*, ORR, <https://www.acf.hhs.gov/orr/about/ucs/sponsors> (last visited Feb. 25, 2018).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> See KIND, Targeting Families 8 (Dec. 2017), [https://supportkind.org/wp-content/uploads/2017/12/TargetingFamilies\\_-December-2017\\_Final-v.2.pdf](https://supportkind.org/wp-content/uploads/2017/12/TargetingFamilies_-December-2017_Final-v.2.pdf).

<sup>13</sup> John Burnett, *ICE Has Arrested More Than 400 in Operation Targeting Parents Who Pay Smugglers*, NPR (Aug. 18, 2017), <https://www.npr.org/2017/08/18/544523231/arrests-of-undocumented-parents-sparks-debate-between-federal-officials-and-immi>; Hannah Dreier, *Relatives of Undocumented Children Caught Up in ICE Dragnet*, ProPublica (Sept. 11, 2017), <https://www.propublica.org/article/relatives-of-undocumented-children-caught-up-in-ice-dragnet>; Uriel J. Garcia, *ICE Arrests Young Immigrant’s Sponsor Months After Feds Assured Him He’d Be Safe*, THE NEW MEXICAN, Sept. 9, 2017, [http://www.santafenewmexican.com/news/local\\_news/ice-arrests-young-immigrant-s-sponsor-months-after-feds-assured/article\\_428366f5-6d03-552c-a277-93b83d3005e2.html](http://www.santafenewmexican.com/news/local_news/ice-arrests-young-immigrant-s-sponsor-months-after-feds-assured/article_428366f5-6d03-552c-a277-93b83d3005e2.html).

charged with federal smuggling crimes, but instead charged with violations unrelated to smuggling.<sup>14</sup> Many of those arrested were not the suspects ICE had targeted, but merely present in the home of the potential sponsors when the agency arrived.<sup>15</sup> These actions stoked fear in immigrant communities and raised concerns among many about stepping forward to care for unaccompanied children in ORR custody. KIND issued a report in December 2017 documenting the stories of unaccompanied children and sponsors affected by DHS' enforcement actions and the detrimental impacts of enforcement against sponsors on the well-being of children and due process.<sup>16</sup>

In April 2018, information-sharing between DHS and ORR was formalized through a Memorandum of Agreement providing for the continuous sharing of information about unaccompanied children from the time of their apprehension through their release from custody, including information about potential sponsors and other adults in the home. Shortly after, DHS issued a notice in the Federal Register to modify its system of records to carry out the agreement.<sup>17</sup> That notice stated that ICE will use information about sponsors obtained through ORR to "identify and arrest those who may be subject to removal."<sup>18</sup> At the same time, HHS pursued modifications to forms related to its sponsorship process to implement the MOA.<sup>19</sup> ORR's modified process included expanded fingerprinting and background check requirements, including for all potential sponsors and adult members of their households.

## **Impacts of the MOA**

### ***1. Prolonged Detention and Traumatization of Children***

The Memorandum of Agreement has impeded ORR's ability to promptly place unaccompanied children in the least restrictive setting by deterring potential sponsors for unaccompanied children. Potential sponsors have expressed fear of engaging with the agency's sponsorship and family reunification process due to both the expanded scope of the information collected as well as ICE's intent to use information it receives from ORR for immigration enforcement.<sup>20</sup> KIND has heard reports of individuals declining ORR's request to fill out necessary paperwork to serve as sponsors or withdrawing from the family reunification process

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<sup>14</sup> Dreier, Relatives of Undocumented Children Caught Up in ICE Dragnet, *supra* note 13.

<sup>15</sup> See Garcia, ICE Arrests Young Immigrant's Sponsor Months After Feds Assured Him He'd Be Safe, *supra* note 13.

<sup>16</sup> KIND, Targeting Families 8 (Dec. 2017), [https://supportkind.org/wp-content/uploads/2017/12/TargetingFamilies\\_-December-2017\\_Final-v.2.pdf](https://supportkind.org/wp-content/uploads/2017/12/TargetingFamilies_-December-2017_Final-v.2.pdf).

<sup>17</sup> 83 Fed. Reg. 20844 (May 8, 2018).

<sup>18</sup> *Id.*

<sup>19</sup> See, e.g., Administration for Children & Families, Sponsorship Review Procedures for Approval for Unaccompanied Alien Children, OMB No. 0970-0278, 83 Fed. Reg. 22490 (May 15, 2018); 83 Fed. Reg. 42895 (Aug. 24, 2018); 83 Fed. Reg. 52221 (Oct. 16, 2018).

<sup>20</sup> See 83 Fed. Reg. at 20846 (noting among the purposes of DHS' proposed system of records change "[t]o screen individuals to verify or ascertain citizenship or immigration status and immigration history, and criminal history to inform determinations regarding sponsorship of unaccompanied alien children . . . and to identify and arrest those who may be subject to removal.").

after their applications have been submitted. Fear of enforcement has similarly compelled some potential sponsors and other household members to miss their fingerprinting appointments or to discontinue their applications. Moreover, the burdensome requirement that all adult household members submit information significantly delayed some reunifications.

Recent enforcement actions by ICE in the course of implementing the MOA have only compounded these fears. From July through November 2018, ICE arrested 170 potential sponsors of unaccompanied children in ORR custody.<sup>21</sup> Nearly 64 percent (or 109) of the individuals arrested had no criminal record.<sup>22</sup> Such actions have led to a decline in the number of individuals willing to sponsor unaccompanied children in ORR custody and delayed the release of children from ORR. Numbers of children in ORR custody have soared as children remain in care for longer, indefinite periods. In the fall and winter of 2018, the number of unaccompanied children in ORR's care reached historic levels—with nearly 15,000 children in care in mid-December 2018. The length of time in ORR care similarly ballooned as a result of the MOA and other policies—at one point with an average length of stay at longer than 70 days.<sup>23</sup>

In recognition of the delays caused by its new fingerprinting requirements, ORR modified its policy in December 2018 to limit the household members subject to the fingerprinting requirements.<sup>24</sup> The change led to the release of several thousand children from ORR custody toward the end of 2018.<sup>25</sup> Recent language in the 2019 appropriations bill sets forth important and necessary limits on DHS' use of information obtained from HHS for immigration-related enforcement against sponsors and other adults.<sup>26</sup> This language is an important first step in curtailing the negative impacts of the MOA, however it is not a complete

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<sup>21</sup> Geneva Sands, CNN, *ICE arrested 170 potential sponsors of unaccompanied migrant children* (Dec. 10, 2018), <https://www.cnn.com/2018/12/10/politics/ice-potential-sponsors-arrests/index.html>.

<sup>22</sup> *Id.*

<sup>23</sup> Jonathan Blitzer, *To Free Detained Children, Immigrant Families Are Forced to Risk Everything*, *The New Yorker* (Oct. 16, 2018), <https://www.newyorker.com/news/dispatch/to-free-detained-children-immigrant-families-are-forced-to-risk-everything> (“Officially, the H.H.S. claims that the average time is fifty-nine days, but according to one of the department’s own officials, who agreed to speak with me on the condition of anonymity, detained children now spend an average of seventy-four days in federal custody, more than double what it was at the start of 2016.”).

<sup>24</sup> ACF, Division of Policy and Procedures FAQ: December 2018, Fingerprint Modifications Pursuant to ORR Operational Directive.

<sup>25</sup> See Robert Moore, *Texas Monthly*, *Tornillo’s Tent City No Longer Houses Children, But Facilities Like It Aren’t Going Away* (Jan. 11, 2019), <https://www.texasmonthly.com/news/remaining-children-released-tornillo-tent-city/>.

<sup>26</sup> Conference Report, Continuing Appropriations for the Department of Homeland Security for Fiscal Year 2019, and For Other Purposes, Sec. 224, <https://docs.house.gov/billsthisweek/20190211/CRPT-116hrpt9.pdf> (“None of the funds provided by this Act or any other Act, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the components funded by this Act, may be used by the Secretary of Homeland Security to place in detention, remove, refer for a decision whether to initiate removal proceedings, or initiate removal proceedings against a sponsor, potential sponsor, or member of a household of a sponsor or potential sponsor of an unaccompanied alien child . . . based on information shared by the Secretary of Health and Human Services.”). The section provides an exception in certain cases of felony convictions or pending charges related to child abuse and other child-related crimes.

prohibition on information-sharing. For example, information may be used for enforcement purposes if someone is charged with a crime—even if there has been no prosecution. Moreover, because this provision was part of an annual appropriations bill, it will only last for that fiscal year and it is not permanent. ORR’s information-sharing continues to have a chilling effect on sponsors that is prolonging the detention of children, with profound impacts for their health and well-being and legal cases.

Held indefinitely in ORR custody with no knowledge of when and to whom they may be released, unaccompanied children experience significant anxiety and distress. These impacts may be particularly significant for child survivors of trauma. In detention for months potentially without the emotional support of family members children may grow hopeless and decide to return to their countries of origin, even when they may have viable claims for humanitarian protection and face lethal danger if deported. Detention fatigue not only affects children’s physical and mental health, but it negatively impacts their ability to proceed with their legal cases.<sup>27</sup>

KIND has witnessed such effects in its representation of children, including one client who was only 8 years old. The sponsor successfully completed ORR’s clearance processes, as outlined in the MOA, in August 2018. After receiving information concerning their successful completion, the sponsors did not receive additional information as to when the child would be released to them until KIND intervened in October 2018. During this period, the child had limited communication with both his mother and his proposed sponsor. Consequently, the child began to self-harm and, at one point, asked to be returned to his home country out of desperation caused by his prolonged detention, despite his mother’s insistence that it was too dangerous for him to return.

In another case of a fourteen-year-old child, the child needlessly spent five additional months in ORR custody due to the changing MOA policies and their bungled implementation. After the sponsor complied with all of the requisite procedures, including having all adults in her household submit fingerprints, ORR changed the requirements. Once ORR began processing the potential sponsorship again under the new requirements, the mother’s fingerprints had expired. When she resubmitted her fingerprints to ORR, it triggered an error in the system because it was the second set of prints reviewed for the same person. During these absurd bureaucratic missteps, the child languished in detention and expressed suicidal ideation. Without consistent intervention from the KIND attorney, the child would have spent even longer in detention.

KIND also represented a child who had been separated from his father under the Administration’s Zero Tolerance Policy. The father had been removed from the country and, due to the MOA, reunification with the child’s uncle was delayed. The combined trauma of having been forcibly separated from his father and having been detained for a prolonged period resulted

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<sup>27</sup> See, e.g. Julie M. Linton, Marsha Griffin, Alan J. Shapiro, Am. Academy of Pediatrics, *Detention of Immigrant Children* (May 2017), <https://pediatrics.aappublications.org/content/139/5/e20170483.short>

in the child's asking to be repatriated to his country of origin, even though he had a credible fear of harm.

Prolonged detention has also led to many unaccompanied children turning 18 while in ORR custody and "aging out" of ORR care. In many cases, ICE has assumed custody of these children on their 18th birthdays—transferring them to more restrictive care with more limited access to needed services, including counsel to assist them with their legal cases. Despite federal law being clear that alternatives to detention must be considered instead of automatically transferring children to ICE custody,<sup>28</sup> KIND frequently serves children who have aged-out because ORR has not offered ICE any alternative. Those children are brought, often at midnight on their 18<sup>th</sup> birthday, from the ORR shelter to an adult detention facility.<sup>29</sup>

KIND assisted a child who had been detained and was waiting to be reunified with his mother. Because of complications related to arranging fingerprints for all adult household members, as required by the MOA at the time, the child turned 18 before his mother was approved as a sponsor. Instead of being able to finish the court process in the home of his mother, he was detained in an ICE facility for adults.

Court efficiency is also negatively impacted when children are detained for long periods of time. Immigration judges are often loathe to move ahead with a child's case while the child's reunification with a sponsor is pending. Important information and documents necessary to prove children's cases are often hard to access for children separated from their families. Access to counsel is incredibly limited in ORR facilities, and with the uncertainty of reunification schedules, families often cannot secure pro bono or private counsel to begin working on a child's case. Finally, some forms of humanitarian protection require the child to be reunified before court procedures necessary for legal protection can begin. Detention fatigue often makes children want to give up their claims for protection. They are unable to withstand the harsh conditions and prolonged family separation.<sup>30</sup> When children struggle with the decision about giving up their claims for protection, attorneys must spend time consulting with their clients about their options. Time that would otherwise be spent preparing for a hearing is spent advising the child about their options and providing emotional support as the child makes an agonizing decision. This is not only devastating for the child, but it drains limited resources and prolongs the processing of children's legal cases.

In another affront to due process for unaccompanied children, the MOA explicitly allows ORR to provide ICE with information that is unavailable to a child's attorney without a

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<sup>28</sup> 8 U.S.C. § 1232(c)(2)(A)

<sup>29</sup> John Burnett, *Migrant Youth Go From A Children's Shelter To Adult Detention On Their 18th Birthday*, NPR (Feb. 22, 2019), <https://www.npr.org/2019/02/22/696834560/migrant-youth-go-from-a-childrens-shelter-to-adult-detention-on-their-18th-birth>.

<sup>30</sup> See Detention of Immigrant Children, *supra* note 27 (Qualitative reports about detained unaccompanied immigrant children in the United States found high rates of posttraumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral problems. Additionally, expert consensus has concluded that even brief detention can cause psychological trauma and induce long-term mental health risks for children.)

centralized file request.<sup>31</sup> These requests can take months to process. During that time, ICE has information that could be used in the removal proceedings against the child, but neither the child nor the child's attorney may be aware of it. This information may be pertinent to the child's eligibility for humanitarian protection. If the information is inaccurate, the child must know about it to correct the mistake and prepare his or her defense.

The direct correlation between the MOA and increased lengths of stay has resulted in a ballooning population of detained children. Never have so many children been detained by ORR. This has also led to significantly greater costs to the government. With each day that a child's release is delayed costs increase, multiplied by thousands of children. Cost concerns have intensified with ORR's use of expensive emergency influx facilities, such as those in Tornillo, Texas, and Homestead, Florida, to address the agency's strained capacity.

## ***2. Increased Use of Emergency Influx Facilities***

In March 2018, ORR re-opened an emergency influx facility in Homestead, Florida, to address its capacity needs. This facility was followed by the creation of an emergency influx facility in Tornillo, Texas. While emergency influx facilities may be necessary in cases of unexpected increases in arrival numbers to prevent backups of children in short-term CBP facilities at the border, as occurred in 2014, no such emergency currently exists. Importantly, these facilities have come into recent use not as a result of unanticipated increases in the number of unaccompanied children arriving at the border, but rather as a consequence of ORR and DHS' own policy changes. With the cost of emergency influx facilities estimated at \$750 per night,<sup>32</sup> or nearly three times that of a shelter facility, the impacts are sizeable and far-reaching.

As emergency influx facilities, Tornillo and Homestead are not held to the same child welfare and licensing standards as ORR's other shelters. As a result, services for children are decidedly more limited in such facilities. Located in a remote desert area, Tornillo offered only limited access to education or classes, and to legal and medical services, including mental health care, prior to its closure in December 2018. Indeed, the facility went nearly two months before securing access to legal services for the thousands of children held in the tent city. Sprawling in size, Tornillo was inappropriate for the long-term care of children and presented significant challenges for identifying and serving the needs of thousands of children held there. The facility at Homestead, which now houses over 2,000 children, presents similar challenges.

Children's ability to have their cases fairly heard is severely impeded by being held in an emergency facility. In Tornillo, children had very limited access to know your rights presentations and legal screenings. The small number of legal services providers ORR supported

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<sup>31</sup> See Memorandum of Agreement, <https://www.texasmonthly.com/wp-content/uploads/2018/06/Read-the-Memo-of-Agreement.pdf>

<sup>32</sup> Caitlin Dickerson, The Government Is Moving Migrant Children to a Texas Tent City. Here's What's Behind It, N.Y. Times (Oct. 1, 2018), <https://www.nytimes.com/2018/10/01/us/migrant-children-tent-city-camp-texas.html>.



were unable to dedicate sufficient attention to each case. Often children would be notified the day of their first court hearing, and attorneys would scramble to try to explain complex immigration law to children before they were driven to court. As a result, judges could not move forward with these children's cases. There is insufficient private meeting space for attorneys to use to discuss incredibly difficult and sensitive details of a child's case. KIND met with one girl from Guatemala who had a strong claim for asylum. However, because she could not get a private attorney to represent her in Tornillo, and ORR had not contracted with a legal service provider to represent children in individual cases, the child gave up her claim and agreed to return to a place where she feared for her life.

The expanded use of influx facilities in the absence of a true emergency has led to the indefinite detention of children with only limited access to basic services--the precise circumstance the *Flores* Settlement Agreement sought to remedy and prevent.

## **Conclusion**

To fulfill ORR's obligation to serve the best interests of unaccompanied children in its care, ORR must immediately end the MOA with DHS and stop sharing immigration status information about potential sponsors. ORR should focus on finding the best sponsor for a child who will provide a safe home and support that child during his or her removal proceedings. Permanently ending the MOA will restore ORR's correct prioritization of child welfare over immigration enforcement.

Secondly, ORR must only rely on emergency influx facilities to house unaccompanied children when it is faced with caring for unexpected numbers of children. Barring unpredictably large arrivals of children in need of care, ORR should use permanent, small, and state-licensed facilities to house children only as long as needed to approve an appropriate sponsor. Children must not be held in federal facilities any longer than necessary. Moreover, ORR must develop public standards for its unlicensed emergency facilities to ensure the appropriate provision of legal, medical and educational services. These standards should include timeframes by which the legal, medical and educational services must be provided to each child following placement in the facility and limits on how long ORR can use an unlicensed facility.

Finally, ORR should prioritize children's access to high-quality legal counsel. Children are in ORR custody precisely because of immigration removal proceedings. Everything possible should be done to ensure children are able to fairly and efficiently tell their story to a trained adjudicator who can decide which children need protection in the United States and which would be safe to return to their country of origin. Having children represented during their proceedings not only helps the child access meaningful due process, but it increases efficiency in a sorely overwhelmed system.

Child protection must be a priority in the enforcement of our immigration laws. Congress assigned responsibility for the care and custody of unaccompanied children to the Office of Refugee Resettlement because of its expertise in child welfare. The basic tenets of child welfare must be reflected in the agency's policies, and the agency must always act in the best interests of children.