

# PUNISHING TRAUMA

Incident Reporting and Immigrant Children in Government Custody

SEPTEMBER 2022



**YOUNG  
CENTER**

FOR IMMIGRANT  
CHILDREN'S  
RIGHTS

**NATIONAL  
IMMIGRANT  
JUSTICE CENTER**

A HEARTLAND ALLIANCE PROGRAM

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# INTRODUCTION

Due to displacement, insecurity, and violence, growing numbers of children from around the world are forced to migrate and seek refuge at the United States' southern border without a parent or legal guardian accompanying them. These children, designated "unaccompanied" under immigration law, are taken into government custody and placed with the Office of Refugee Resettlement (ORR), a part of the Department of Health and Human Services (HHS), until their release. During this time, ORR facility staff are required to issue "Significant Incident Reports" (SIRs) to document a wide spectrum of disclosures or events, including typical child and adolescent activity and behavior, disclosures made by children, and manifestations of children's trauma and mental health symptoms. These SIRs become a permanent part of the child's record and have far-reaching consequences for children.

For our  
Executive  
Summary,  
[click here.](#)

In 2021, the Young Center for Immigrant Children's Rights (Young Center) and the National Immigrant Justice Center (NIJC)—both of which serve unaccompanied children as HHS-appointed child advocates (Young Center) and legal service providers (NIJC)—conducted a broad survey of service providers to better understand the practical impact of SIRs in children's daily lives. Survey respondents included ORR facility staff, attorneys, legal service providers, and social workers directly working with unaccompanied children. Separately, the Young Center surveyed its own staff appointed as child advocates to unaccompanied children regarding their experiences with SIRs and the impact of SIRs on children to whom the Young Center is appointed as child advocates. To preserve children's confidentiality and privacy, NIJC and the Young Center did not survey unaccompanied children directly. However, our report includes poems and direct quotes from children who have received SIRs throughout their time in ORR custody.

Based on our cumulative research and analysis, we conclude that nothing short of an overhaul will correct the systemic, decades-old problems inherent in ORR's incident reporting system. We offer recommendations for ORR to begin this overhaul and mitigate the harms children experience daily, including (1) centering trauma-informed care, including crisis prevention and de-escalation; (2) using incident reporting as a metric to monitor and evaluate children's needs and services, staff response, and facility-wide issues; (3) limiting reporting to serious incidents and preventing over-reporting; (4) preventing the use of incident reports as a form of discipline or punishment; (5) implementing safeguards to ensure that children have an opportunity to be heard on incident reports; and (6) preventing the disclosure of incident reports and other confidential information in children's files to DHS and other agencies. **See Appendix A, p. 26, for a glossary of terms and acronyms used in this report.**

# WHY MIGHT UNACCOMPANIED CHILDREN IN CUSTODY HAVE BEHAVIORAL NEEDS?

Estas fronteras son difíciles de cruzar  
Con nervios, enojos, frustraciones.  
Pero sigo con la lucha de aprender. Aunque las fronteras son difíciles de superar, algún día lo cruzo y mejoraré mi vida.<sup>1</sup>



These borders are hard to cross  
With their fears, furies, frustrations.  
But I keep fighting to learn.  
Although borders are hard to traverse  
I'll one day make it across and improve my life.

It is well-documented that many children in ORR custody have experienced intense trauma, harm, and violence from events that occurred in their countries of origin, during their migration journey, or upon arriving in the United States.<sup>2</sup> Many children have experienced harm and violence in their countries of origin prior to migration. Children from Central America, from where many unaccompanied children migrate, frequently suffer gang violence, the erosion of human rights, violence in the home, and other grave danger and serious harm before departing to seek safety in the United States.<sup>3</sup>

Children also experience trauma from events that occur upon arrival at the border; for instance, some children experience trauma from being separated from their parents, caregivers, or family members. Research has shown that separation from a caregiver or parent for even a short period of time can be traumatic for a child.<sup>4</sup> Children may also be traumatized by their time in U.S. Customs and Border Protection (CBP) detention, where conditions of severe deprivation, overcrowding, poor language access, and at times deadly lack of medical care have been well-documented.<sup>5</sup>

## THE COMPOUNDING HARM OF CONGREGATE CARE

Congregate care facilities, particularly in large-scale settings, pose serious consequences for children's cognitive, emotional, and physical development. Research shows that children in residential facilities who have been separated from familial caregivers experience physical and cognitive developmental delays, difficulty forming healthy attachments, and the development of behavioral problems.<sup>9</sup> Some emotional and behavioral disturbances reported in children placed in congregate care facilities mirror those of children who suffer abuse and neglect.<sup>10</sup> ORR has increasingly relied on large-scale facilities to care for unaccompanied children in its custody. These facilities are expected to hold hundreds of children, with some influx facilities holding up to 2,000 children at a time. Training staff to use incident reporting properly in these sites presents great challenges, potentially leading to improper or over-reporting.

Children in ORR custody must adapt to new, unfamiliar congregate care settings where they interact with adults they do not know, and are subject to significant restriction on their movement and freedom, while often facing language and cultural barriers. The majority of children live in large-scale facilities, often with hundreds or even thousands of children; these facilities are far removed from the family-based settings where children can thrive.<sup>6</sup>

Children frequently suffer “detention fatigue,” particularly during long stays in ORR custody, with symptoms of increased stress, anxiety, behavioral issues, and self-harm or suicidal ideation.<sup>7</sup> Longer stays are often caused by delays in reunification with family, delays in release to other sponsors, delays or denials of placement in foster care, and transfers to more restrictive settings. Children in these circumstances may experience psychological distress, stemming from a sense of helplessness, limited agency, and lack of trauma-informed care.<sup>8</sup>

**"I would get upset with the Youth Care workers at [large-scale influx facilities] because many kids were bullying me while I was there and they wouldn't do anything. I would say, 'you're supposed to be here to help us and take care of us and you do nothing.' Then they would write a report about it."**<sup>11</sup>

Many children also suffer from fear of imminent deportation and anxiety due to the lack of certainty regarding their ability to remain in the United States and their release from custody. These factors contribute to a “‘building block effect’ where uncertainty and insecurity add to a cumulative effect of exposure to trauma that is associated with an increase in mental health problems such as post-traumatic stress disorder.”<sup>12</sup> When paired with frustration and despair, cumulative trauma may lead children to act out—with symptoms of trauma that experts in child mental health have identified as including “rapid, reflexive response to stimuli, reminders, or triggers”; “inattention, poor focus, hyperactivity, and difficulty completing tasks”; and “difficulty engaging socially or viewing themselves as worthless.”<sup>13</sup>

While children in ORR custody face many stressors that increase their vulnerability to mental health and developmental difficulties, it is important to note that many unaccompanied children are able to adjust and adapt positively following resettlement in the United States when they receive the care and support they need.<sup>14</sup> To best care for unaccompanied children, therefore, experts recommend a comprehensive trauma-informed approach that is “strength-based, building on family protective factors rather than emphasizing deficits,”<sup>15</sup> such as punishing children for acting out and other manifestations of trauma.<sup>16</sup>

# I. FRAMING THE ISSUE: The role of SIRs within ORR's system for unaccompanied children

ORR's Division of Children's Services was created in 2003 under the Homeland Security Act (HSA) with the specific objective of separating the government's responsibility for care and custody of unaccompanied immigrant children from immigration enforcement.<sup>17</sup> ORR is responsible for the care and release of unaccompanied children who are referred from either the Department of Homeland Security's (DHS) CBP when children are taken into custody at the border or at other ports of entry, or Immigration and Customs Enforcement (ICE) when children are taken into custody within the United States. Under the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPPRA) and a 1997 settlement agreement governing the treatment of immigrant youth in government care known as the Flores Settlement Agreement, ORR must ensure that children are released in a timely and safe manner from ORR custody to sponsors, usually parents or close relatives, who can care for them pending their immigration proceedings.<sup>18</sup> ORR is required to place children in its custody in the least restrictive setting that is in the child's best interests. ORR custody is not meant to be punitive, disciplinary, or correctional; rather, ORR's responsibilities should be centered on child welfare and wellbeing during what is intended to be a temporary time in custody for unaccompanied children.

## 1. What Are SIRs?<sup>19</sup>

**“It's easy for the guards<sup>20</sup> to write incident reports -you did this, you did that, you disrespected me- but they never hear the kid's side of the story. My voice was never heard. They never came and talked to us about what was going on inside of us. A kid starts suffering as soon as Border Patrol gets them. They're all scared of being sent back home or being sent to jail.”<sup>21</sup>**

Significant Incident Reports (SIRs) are a series of forms that ORR requires its facilities to use to report incidents relating to children in its custody. ORR often frames SIRs as merely forms documenting children's time in government care. However, they are central elements of ORR's disciplinary structure and can have sweeping consequences for children.

ORR uses SIRs to “report on a wide range of incidents,”<sup>22</sup> such as health and medical issues, disclosures of past or present abuse or neglect of a child, and behavior-related incidents. ORR policies and procedures have created a system in which numerous incidents, regardless of their seriousness or significance, trigger SIRs on a daily basis. ORR facilities are incentivized to over-report, with facility staff erring on the side of reporting many minor and trivial incidents to ensure that they are complying with ORR policies.<sup>23</sup> For instance, facilities frequently report children's refusal to participate in facility activities or minor infractions of facility rules.

ORR also requires providers to report all instances of “verbal aggression” by a child, even though ORR concedes that “in most cases verbal aggression does not pose a safety risk to others.”<sup>24</sup> ORR's reporting

requirements far exceed state licensing and mandatory reporting requirements which largely cover more serious incidents of injury and significant danger to the safety and health of children.<sup>25</sup> **See Appendix C, State Licensing Requirements.**

In addition, because there are no strict parameters regarding what types of behavior warrant an SIR, the type of behavior that triggers an SIR varies by facility, staff, and even by child, opening the door to reports that are based on implicit or explicit bias or reliance on stereotypes. SIRs are also not limited to events that occur while a child is in ORR custody. For instance, providers must complete an SIR when the provider believes the child has disclosed past abuse or involvement in criminal or gang-related activity prior to being in ORR custody.

Although ORR policy requires facilities to “ensure that each report includes sufficient detail regarding the incident or event to accurately describe it, identifies the individuals involved, and records all follow-up actions,”<sup>28</sup> SIRs often contain incomplete or inaccurate information. SIRs are completed by one facility staff person, so the information about the incident is often limited to the perspective of that particular staff.

Moreover, ORR requires staff to submit SIRs within an expedited timeframe. For non-urgent incidents, the SIR must be submitted to ORR within 24 hours of the incident.<sup>29</sup> Urgent incidents must be reported within 4 hours. Staff often rush to comply with these timeframes, even if they have incomplete or inaccurate information regarding the incident.<sup>30</sup>

Once an SIR has been submitted, its content cannot be changed or amended. Instead, the ORR facility must create an Addendum, which is added to the existing SIR, when information in the original SIR was incorrect or incomplete or new information becomes available.<sup>31</sup> Addendums, too, must be filed expeditiously.<sup>32</sup> However, many SIRs do not have Addendums and rarely include contextualizing information that may shed light on a child’s mental health status, specific history, and resulting behavior. Notes related to follow-up are often perfunctory or boilerplate, rather than indicating whether any tailored steps were taken by ORR staff to address the incident or to better meet the needs of the child. **See Appendix E, Sample SIR #4.**

## **SIRS BY THE NUMBERS**

In Fiscal Year 2019, ORR served 69,488 children<sup>26</sup> and filed 80,340 SIRs, 25,630 SIR addendums, and 3,000 emergency SIRs and addendums. While some children do not incur a single SIR, many incur dozens or more throughout their time in ORR custody.

Collectively, these incident reports used 34,074 hours (or almost 4 years) of ORR staff time. The annual cost for this staff time added up to over \$1.3 million.<sup>27</sup>



“I thought I was going to go with my mom, but I was informed in the car that I was going to another shelter. I was asking them why. They answered that I could not be in that program because I had too many reports. I asked them, ‘what reports?’ because I was never warned that there were reports against me. They gave me no more explanation or opportunity to defend myself. I started to cry because I was frustrated and also because I did not think it was right that I was suddenly moved.”<sup>33</sup>

Staff are not required to speak with the children involved or provide their account of the incident in the SIR. They are also not required to notify the child of an SIR. Even after an SIR is submitted, facility staff are not required to provide a copy of the SIR to the child; nor do they automatically provide a copy to the child’s legal service provider, counsel, or their government-appointed Child Advocate.<sup>34</sup>

Therefore, in many instances, children are unaware that an SIR was even filed. Attorneys may request copies of the child’s SIRs through ORR’s records request process, which often takes weeks or months. Often, ORR fails to provide any or all the SIRs in children’s files, requiring subsequent records requests. Moreover, even when a child is able to review a copy of an SIR in their file through their Child Advocate or attorney, they do not have the ability to formally challenge or contest the creation of the SIR or its content.

## DOES STATE LICENSING OR MANDATORY REPORTING REQUIRE SIRS?

NIJC and the Young Center have reviewed state licensing and mandatory reporting requirements in multiple states where most ORR facilities are located. ORR’s reporting requirements generally far exceed state licensing and mandatory reporting requirements which largely cover more serious incidents of injury and significant danger to the safety and health of children. For instance, Arizona requires reporting of “an unexpected occurrence” that “creates a significant risk of substantial or serious harm to the physical or mental health, safety or well-being” of a child. Texas requires reporting of only “serious incidents,” which are defined as “non-routine occurrence[s] that ha[ve] or may have dangerous or significant consequences for the care, supervision, or treatment of a child.” See Appendix C for a chart of state licensing and mandatory reporting requirements regarding incident reporting.

No siente bien saber que todas las personas te tienen miedo. Eso te convierte en un monstruo. Eso es lo que piensan las personas de mí. No se imaginan que todo lo que hice, lo hice por miedo.<sup>35</sup>



It doesn't feel good to know that everyone is afraid of you. It turns you into a monster, which is what they think of people like me. They imagine that everything I did, I did out of fear.



## 2. How Are SIRs Used?

ORR Policy states that SIRs “ensure that significant incidents involving UC are documented and responded to in a way that protects the best interests of children in ORR care, along with their safety and well-being.”<sup>36</sup> However, SIRs rarely indicate an individualized response by ORR or facility staff subsequent to the incident to address the needs of the child, such as a change in the child’s treatment plan, the provision of or a referral for additional services, or even a consideration of whether the child may need an accommodation. Instead, SIRs have harmful consequences for children within ORR’s infrastructure and in relation to DHS, while contributing to the criminalization of children.

### *a) How SIRs impact children within ORR’s infrastructure*

ORR has different levels of licensed placements that vary in restriction.<sup>37</sup> At any level of ORR custody, children’s movements, behavior, and disclosures are closely monitored. Children may be “stepped up” or “stepped down” from different levels of restriction based on ORR’s assessment of their needs and behavior. The least restrictive placement for children is release to their families or, if they do not have family to care for them, placement in foster care.

While awaiting release or transfer to foster care, children are most frequently placed at the shelter level, for which ORR relies almost exclusively on congregate care settings that far exceed 25 beds. More restrictive settings include medium security facilities (known as “staff secure” facilities), residential treatment centers, or juvenile detention centers (known as “secure” facilities). **For more on these levels of custody, see Appendix B.**

ORR routinely reviews and relies upon SIRs drafted by facility staff in making placement determinations, and ORR facilities scrutinize SIRs before accepting children. SIRs can thus lead to transfers to more restrictive placements and prolonged custody in myriad ways.

→ **Step-ups to more restrictive facilities:** Rather than reviewing incidents to determine whether a child needs additional supports and services in their current placement, ORR facilities often respond to SIRs by stepping-up children to more restrictive placements such as staff secure and secure facilities and residential treatment centers.<sup>43</sup> These restrictive placements are rarely able to address a child’s trauma and related manifestations; in some contexts, conditions stand in stark contrast with child welfare best practices and aggravate rather than address children’s mental health needs.<sup>44</sup> Children are not provided with an opportunity for a hearing prior to being placed in a more restrictive setting.<sup>45</sup>

### **SYSTEMIC ISSUES IN ORR’S RESTRICTIVE FACILITIES**

Over the years, complaints of systemic issues related to ORR’s more restrictive facilities have been reported and documented. These issues include inadequate mental health services,<sup>38</sup> overuse of psychotropic medications,<sup>39</sup> improper placement of children with mental health needs and disabilities,<sup>40</sup> lack of trauma-informed care,<sup>41</sup> and abusive conditions resulting in frequent self-harm and suicide attempts.<sup>42</sup>

A child's legal service provider or attorney is rarely notified that ORR plans to step up a child, even though the child's placement in a more restrictive setting frequently disrupts their established relationship with their attorney and may negatively affect the child's applications for relief from deportation.<sup>46</sup>

**“I was told that I was transferred from the [shelter] to [a residential treatment center] because I behaved badly. I broke a lot of glass....I remember my clinician at the shelter showed me a written document that explained that I was being transferred to a different facility because I had various mental traumas.”<sup>47</sup>**

→ **Denial of step-downs to less restrictive placements:** ORR relies on SIRs to deny step-downs of children in restrictive placements to less restrictive placements. Generally, ORR is much quicker to "step up" a child to a more secure placement than they are to "step down" a child to a less restrictive one.<sup>48</sup> Children's entire case files, including every SIR, may be evaluated by ORR in order to determine whether a child is stepped up or stepped down. For children who are stepped-up, ORR will often deny step-down unless the child has spent at least 30 days in the more restrictive placement without having any significant "behavioral" SIRs.<sup>49</sup> An SIR for even a minor incident can restart the "clock" and keep children in prolonged, restrictive custody. Less restrictive ORR facilities can refuse to accept children for placement based on SIRs, even when ORR leadership has approved a step-down. SIRs can thus indelibly brand a child as a "problem" child which results in a child being kept in an inappropriate restrictive setting.

### SIRS IN SECURE ORR FACILITIES

In 2018, the California Department of Justice released a report of findings from its review of various immigration detention facilities in California, including Yolo Juvenile Detention Facility, a juvenile hall with which ORR contracted as a secure facility until 2020. The report found that some youth at Yolo "purposely ask[ed] to stay in their cells during scheduled free time so they [could] avoid getting SIRs and more quickly be eligible for step down."<sup>50</sup> The report also found that "[a]ll incidents of youth misbehavior, no matter how minor, are recorded as a Significant Incident Report (SIR) which impacts the youth's ability to be stepped down to a less secure facility."<sup>51</sup>

**“I don't like taking the medicine because it makes me sleepy and dizzy. But, if I don't take the pills, they will give me a report and I will have to stay at [residential treatment center] longer.”<sup>52</sup>**

→ **Delay or denial of release from ORR custody to a sponsor:** ORR has relied on SIRs to justify the need for ORR to conduct a home study, in which the safety and suitability of a proposed sponsor for a child is assessed, including the sponsor's capacity to meet the child's needs and any potential risks of the placement. Home studies are not required in every case and often result in delays of release of children to sponsors, many of whom are parents or other family members, and may even result in denial of placement with a potential sponsor.

**“I’ve been told that I behave badly, and I won’t be allowed to live with uncle until I improve my behavior.”<sup>53</sup>**

→ **Delay or denial of placement in shelters or foster care:**<sup>54</sup> Even when ORR approves a child's transfer, shelters and foster care providers have relied on SIRs to deny placement to children, often pointing to a child's specific SIRs or the number of SIRs in a child's file as evidence that the child has behavioral or mental health needs that the facility or the provider is unable to meet. This is often the case irrespective of whether the incident(s) occurred days or months into the child's time in custody.

→ **Denial of placement in Unaccompanied Refugee Minors program (URM) foster care:** ORR also relies on children's SIRs to deny placement in ORR's URM program, which provides foster care and services to some eligible unaccompanied children when they meet certain requirements related to their claims for immigration relief. URM often requires a child to have a period of 60-90 days without any behavioral SIRs in order to access the program.

For children who do not have family members or any other individuals to sponsor them, URM is often a critical path to permanency as it ensures that the child can receive foster care services until they are 20 years old or even older depending on the state.

→ **Undermining staff-child relationships:** SIRs set the tone for how facility staff interact with children on a daily basis. In some cases, staff have discretion on whether to file an SIR or how they write an SIR. Many children have reported being threatened by staff with an SIR unless the child changes their behavior. In other cases, ORR facility staff may feel that they have no choice but to file an SIR in order to comply with ORR policies. In turn, children lose trust in staff and faith that they will be treated fairly while in ORR custody.

**“Not long after that, I had an incident with the same youth. He...told me that he had a knife and was going to cut me. I... reported it to the staff...Still, the staff moved him into the room directly in front of mine. I told them they couldn't do that, after saying he would kill me...I got upset and told the staff that they weren't good for anything and they wrote me up in a report.”<sup>55</sup>**



## b) How SIRs impact children and youth in relation to DHS

DHS plays multiple roles in unaccompanied children's lives. At the border, DHS is their first custodian, before a theoretically speedy hand-off to ORR pursuant to the TVPRA and Flores.<sup>56</sup> After this initial contact, DHS may assume three new roles for children that involve SIRs: 1) the role of prosecutor in immigration court; 2) the role of adjudicator with regard to applications for legal relief before U.S. Citizenship and Immigration Services; and/or 3) custodian, if the youth is taken into an ICE detention facility. In all three roles, DHS pays close attention to SIRs in making its assessments. DHS is able to access SIRs because ORR shares them, either during planning for youth who are turning 18 or pursuant to specific information-sharing agreements.

→ **Transfer to adult ICE detention upon turning 18:** When a child in ORR custody turns 18 years old, ICE decides whether to take the youth into adult ICE custody or to release them to a community-based setting. Prior to the child's 18th birthday, ORR makes a recommendation to ICE which includes an assessment of whether the youth poses a danger or flight risk.<sup>57</sup> ICE considers this recommendation and any other information ORR has provided about the youth in making its decision whether to transfer the youth into adult detention. While the TVPRA does not require ORR to share children's ORR case files or SIRs with ICE, ORR customarily provides children's SIRs to ICE.<sup>58</sup> Even when this information is not provided to ICE, ORR often bases its recommendations to ICE on children's SIRs.

Due to a class action suit, ICE has dramatically decreased the number of youth transferred to adult detention.<sup>59</sup> However, a child's 18th birthday always raises the specter of ICE detention—a particularly harmful environment for most young people,<sup>60</sup> including youth with trauma histories<sup>61</sup>—with ORR playing a pivotal role in ICE's custody decision.

→ **Information-sharing agreements between DHS and ORR:** While federal agencies outside of HHS generally do not have unrestricted access to children's case files, ORR regularly shares SIRs with DHS pursuant to information-sharing agreements; DHS has then used the information against children in their immigration cases, often in an effort to persuade a judge or asylum officer to deny a child the right to remain in the United States.<sup>62</sup> DHS has also used information in SIRs for immigration enforcement purposes against potential sponsors.<sup>63</sup>

### HOW INFORMATION-SHARING LED TO A TRAGIC END FOR ONE CHILD

Kevin Euceda was a 17-year old asylum seeker who had survived unspeakable violence at the hands of gangs in Central America. Because Kevin had shared with an ORR clinician during counseling that he had been conscripted into a gang, he was stepped up to secure detention. At the secure facility, he again confided in his clinician, a trusted adult with whom he shared many details of his trauma and pain. Upon turning 18, Kevin was transferred to ICE detention. During his asylum trial, ICE used SIRs and notes from sessions with ORR clinical staff<sup>64</sup> to argue that he should not be granted asylum or released on bond. As a result, Kevin was detained for more than three years until he lost hope. He asked to be deported to escape ICE detention and returned to his home country. One month later, he was found dead.<sup>65</sup> Kevin's story shows how information-sharing between ORR and DHS can have devastating outcomes.

In March 2021, ORR and DHS rescinded a 2018 agreement on information-sharing between the two agencies that had allowed ORR to share information obtained from potential sponsors with DHS, which DHS had then used against those individuals for immigration enforcement purposes.<sup>66</sup> In its place, ORR and DHS entered into a new information-sharing agreement, which bars ORR from sharing most information about potential sponsors with DHS. The agreement also places more limitations on the types of information about children in ORR custody that ORR shares with DHS, particularly allegations of a child’s criminal activity or physical assaults allegedly committed by a child.

**“...I had to go to the bathroom really badly so I started walking quickly towards the door. One staff member grabbed my arm and another one grabbed me and they twisted my arm so hard that I thought it would break. They dragged me to the room and then wrote a report saying I was being physically aggressive.”<sup>67</sup>**

Following the 2021 agreement, ORR changed its policies to narrow the categories of SIRs and the types of information that providers must share with DHS, removing “incidents of violence by a child” and alleged gang-related activity from the types of SIRs that staff must report to DHS.<sup>68</sup> ORR has also issued new information-sharing policies prohibiting providers from including clinical or mental health information in SIRs that are reported to DHS unless such information is required by mandatory reporting laws.<sup>69</sup> The policies also prohibit facilities from transmitting mental health records or information provided by a child during clinical therapy sessions to DHS for “any immigration enforcement purpose”<sup>70</sup> or to the Executive Office for Immigration Review (EOIR) “for use in immigration court.”

The new policies also bar ORR staff from providing “non-essential case file information,” including “[m]edical or mental health records or behavioral reports” and “[i]nformation concerning a potential sponsor’s immigration status” to DHS or EOIR “when it is understood that the information is to be used in immigration proceedings or for immigration enforcement.” These policies do not specify whether facilities are prohibited from sharing information provided by children to facility staff other than mental health staff or information provided by children outside of therapy sessions, such as during assessments conducted by facility staff during intake.

Despite these policy changes and the new information-sharing agreement, ORR facilities continue to report to DHS many SIRs that they are not required to share. Although ORR policies require facilities to “have accountability systems and policies in place to protect the confidentiality of Unaccompanied Children’s (UC) information and records from unauthorized use or disclosure,” ORR policies do not address what measures, if any, ORR takes to prevent or remedy erroneous or unauthorized disclosures of SIRs to DHS by its facilities.<sup>71</sup> ORR’s policies also do not specify whether limitations on ORR’s information-sharing with DHS apply in the context of post-18 planning. As a result, ORR broadly shares information with DHS with respect to children who turn 18.

### c) SIRs and the criminalization of children

SIRs impair staff's ability to troubleshoot situations without viewing them as incidents that need to be elevated. Often, SIRs are written up for behavioral incidents that could likely have been avoided with the implementation of effective de-escalation techniques that are tailored to the unique needs and challenges of the child.

**“I tripped over the staff member’s foot. I apologized and the staff member laughed and said ‘That’s all I need.’ I thought he had accepted my apology...A few hours later...the police showed up...None of the police officers spoke Spanish and so when I was done talking, they put me in handcuffs and took me away...After that, I spent twelve days in jail... an attorney was appointed to represent me and the attorney read the report. The report said that I had kicked the staff very hard in the leg and that he had a serious injury to his leg. He told me that I could spend up to a year in jail and be fined \$4,000, or I could accept the blame and everything would go away. I said the report wasn’t true. I asked if I would get deported and the attorney said ICE meant come [sic] for me.”<sup>72</sup>**

Rather than encourage de-escalation and conflict resolution, SIRs often are followed by a call to local police. Some facilities that have not adequately implemented trauma-informed practices or effective de-escalation procedures will call the police when they feel a child is “out of control.” In some instances, police will arrive hours after an incident has de-escalated or is over in response to an incident report submitted by an ORR facility. While ORR policy instructs its facilities to submit SIRs to local law enforcement “in accordance with mandatory reporting laws, State licensing requirements,

Federal laws and regulations, and ORR policies and procedures,”<sup>73</sup> its policies do not further specify or clarify what types of incidents warrant reporting to law enforcement, and more importantly, what types of incidents do not. Its policies also do not reflect what steps ORR takes to prevent or monitor improper reporting to law enforcement by its facilities.

### AFGHAN YOUTH FLEEING WAR

In the aftermath of the chaotic retreat of U.S. forces from Afghanistan in August 2021, hundreds of Afghan children arrived in ORR shelters. Inadequate interpretation services and therapeutic support, paired with seemingly endless detention due to a lack of sufficient foster care and URM placements, have brought many youth to despair. After months in custody, many children have become increasingly anxious and tired in their placements, causing frictions with staff and other incidents that have led to SIRs. Some have been referred for hospitalization due to extensive self-harm, suicidal attempts or other psychiatric needs. In some instances, ORR facilities have called police on children. Facilities have relied on SIRs to justify cases for step-ups. Yet, incident reporting has failed to improve the conditions Afghan children have faced.<sup>77</sup> Many children continue to receive insufficient services and suffer consequences from SIRs directly stemming from their trauma and detention fatigue.<sup>78</sup>



As a result, ORR facilities broadly share SIRs and report incidents to law enforcement, even when it is not appropriate or necessary to do so. This over-reporting leads to police going to ORR facilities, resulting in unnecessary interactions between police and children and, in many cases, the arrest of children.

When police go to ORR facilities, they are rarely able to communicate directly with the child due to language barriers. Nevertheless, they frequently view the child as a threat due to the representations made by facility staff or implicit bias about immigrant children. In one case, the police used a Taser on a child when he did not want to go to school that day.<sup>74</sup> For many children fleeing abusive governments, the involvement of police in these incidents can be triggering and undermines their trust in ORR.

ORR has stated that, when calling law enforcement, facility staff are required to document in SIRs any de-escalation techniques utilized by staff.<sup>75</sup> However, SIRs frequently fail to reference de-escalation techniques, suggesting that staff did not utilize them. In other instances, SIRs only include perfunctory references to the techniques used (e.g., merely stating that the staff employed “verbal redirection”). As a result, these SIRs do not have sufficient information to assess whether the de-escalation technique was evidence-based or appropriate in light of the circumstances and the specific needs of the child.

In June 2021, an investigation by The Center for Investigative Reporting, based on data in government records, “found that a number of [ORR facilities] have been turning to police to manage the sort of behavior that could be expected of children, in particular isolated refugee children.”<sup>76</sup> Specifically, it found that during the last six years, ORR facilities had discharged at least 84 children, from ages 11 to 17, to local law enforcement.

Most of these arrests do not result in convictions or findings of juvenile delinquencies, and often the charges are dismissed. However, these arrests have deeply harmful consequences. They not only result in imprisonment in juvenile jail – or adult jail in states that charge 16 and 17-year-olds as adults – but also are often used against children in their immigration cases. The government relies upon these SIRs to deny the child relief, even if the arrest did not lead to a finding of delinquency or a criminal conviction.

### INADEQUATE CHANGES TO ORR'S SIR POLICY

In 2021, ORR changed its SIR policies by adding caveat language, stating that SIRs are “primarily meant as internal records . . . and not, for example, as legal documents, medical or clinical records, or as dispositive decision documents” and they are “not a complete or comprehensive record” of a child’s time in ORR custody.<sup>79</sup> ORR also acknowledged that SIRs may not provide “complete context” and may not be “fully verified.” However, ORR made no changes to its policies or procedures to prevent improper reliance on information contained in SIRs. Thus, ORR’s changes have done little to address the systemic problems with ORR facility staff’s daily practice of creating and relying upon these reports in ways that are against children’s interests.

### 3. Lack of transparency and oversight

Despite the central role that SIRs play in the ORR system, particularly with respect to step-ups, behavior management, and discipline, it is important to note that very little information about SIRs is publicly available. ORR does not publish data on SIRs and does not proactively share SIRs with children’s attorneys. This lack of transparency has created a system with little accountability or oversight, despite its grave consequences for children.

The following data regarding SIRs is critical to understanding the nature and extent of the impact of SIRs on children: how many SIRs are filed each year, how many children receive SIRs each year, what types of incidents are reported in SIRs, how often SIRs are shared with DHS and other agencies, how many children are stepped-up as a result of SIRs, and demographic data (race, ethnicity, gender, disability, language preference, etc.) for children who receive SIRs.



## II. SURVEY FINDINGS



Adelante hay  
que seguir  
aunque los problemas  
te empiezan a  
perseguir.<sup>80</sup>

It's best  
to keep moving  
even though  
your problems will  
follow you.

In the Summer of 2021, NIJC and the Young Center launched a survey to gain information about the use and impact of SIRs on children in ORR custody. The survey solicited input from a variety of stakeholders, including staff in ORR facilities and legal service providers and attorneys representing children in immigration proceedings.

### METHODOLOGY

This qualitative online survey was distributed through various listservs utilized by service providers for unaccompanied children. Respondents included legal services and social workers and facility staff who have filled out SIRs, reflecting a broad variety of expertise and experience working with children. Collectively, respondents had worked with children from 2011 through the present. The survey (attached in Appendix D) included fifteen questions that were uniform across surveyed individuals, soliciting answers on various ways in which SIRs impact children. Thirty-two providers responded, describing examples of SIRs impacting children in all placement levels. Answers reflected respondents' direct experience with SIRs across ORR's levels of custody. Some respondents opted to provide aggregated information, after reviewing questions with colleagues providing the same services. Respondents also had the option to indicate whether they would be willing to provide additional information, prompting NIJC and the Young Center to conduct follow-up interviews.<sup>81</sup> Between individual and collective respondents and follow-up interviews, the survey provided robust qualitative information on SIRs.

The survey results revealed the types of events that typically result in SIRs, along with three overarching patterns:

- 1. Over-Reporting:** SIRs often capture and pathologize minor infractions or developmentally-appropriate child or adolescent behavior;
- 2. Lack of Context:** SIRs often capture behavior or conduct that is triggered by trauma, detention fatigue, delays in reunification, and/or conditions of custody, and this critical context is rarely documented in SIRs;
- 3. A Pipeline to More Restriction:** SIRs rarely document an individualized response or follow-up by ORR staff, or an increase in services for the child that could prevent incidents in the future. Rather than use SIRs to better meet the needs of children so that children can be placed in the least restrictive setting, ORR often relies on them to step up or keep children in restrictive placements.





## 1. Over-Reporting: SIRs capture and pathologize developmentally-appropriate child or adolescent behavior

Are SIRs documenting "significant" incidents? Our survey revealed that children often received SIRs for minor infractions and behavior that would be completely appropriate if it had occurred outside of ORR:

- **Children failing to follow facility rules**

*Context:* ORR facilities require children to follow a plethora of rules: ORR rules, state licensing regulations, facility rules, and at times dorm or house-specific rules. Each of those rules impose restrictions on children's behavior. Many of these rules restrict behavior and movement that would typically not be prohibited for children outside of government custody. Children who defy those rules—out of childhood defiance or by accident—can incur SIRs.

Survey respondents reported that SIRs were frequently generated for failing to follow house or shelter rules. For example, one respondent reported that a child who raised their voice to facility staff over a disagreement about how much sugar could be added to breakfast cereal resulted in an SIR. Children received an SIR for getting water or for listening to music without permission. SIRs were written up for children having "contraband" when they had extra snacks, candy, or pencils.

- **Children displaying behavior that ORR staff disapprove of but that is developmentally appropriate**  
*Context:* Children in ORR custody have limited means of expressing their frustration. Developmentally appropriate behavior may include some defiance and boundary-testing.<sup>82</sup>

For detained children, testing boundaries can result in an SIR. The more restrictive a child’s placement, the more the child’s behavior will be supervised and monitored. This closer monitoring in turn increases the likelihood that a child will incur SIRs because of how they articulate their emotions.

Survey respondents reported that typical behaviors of toddlers, children, and teenagers have resulted in the filing of SIRs. For example, children engaging in horseplay, tantrums, using foul language, or hitting a wall to release their anger received SIRs.

**“They would punish us a lot. We would cry because they only allowed us to talk [on the phone] to our family for ten minutes. That would frustrate us and we would talk back to the staff. We didn’t have the right to talk back, to use bad language...They would punish us by putting us on one-on-one [supervision] when we broke the rules...I got three days of that once. It meant that you had to stay alone in your room, to eat there, not to go to school, and to have a staff lady with you. They would write a report about us that said we had bad behavior, but they never told us what they wrote. Then the supervisors would call us into the office and talk to us, but our word didn’t count, only the word of the staff.”**  
**-Carlita, 15-year-old Child in ORR Shelter in Texas<sup>83</sup>**

- **Children engaging in horseplay or competitive behavior during recreational activities**

*Context:* Children’s days in ORR custody include scheduled recreation. For many children, this activity is the only time that reminds them of life outside of ORR. However, these activities are closely monitored by facility staff and result in SIRs. Facility staff often feel they have little choice but to file a report, even if the conduct is insignificant in the context of recreation.

Survey respondents reported that children pushing each other during soccer or while engaging in other outdoor physical activity would result in SIRs. Bumps, bruises, or casual horseplay, as well as children slapping each other on the buttocks while playing sports, have all resulted in SIRs.

**ISOLATION AND CONSTANT MONITORING: CONDITIONS IN ORR CUSTODY**

**From a report by Disability Rights California, 2018**

**“In all of the [ORR grantee] facilities, we found that children had very limited interaction with the outside world, including parents, family members, and loved ones. Staff closely monitored all activities and all children had to abide by strict schedules. In one instance, a shelter provider staff member even monitored the use of restrooms...Phone calls were also closely monitored and extremely limited... These pervasive institutional qualities of ORR placements may have long lasting effects for children and negatively affect the psychological and emotional wellbeing of children that have undergone trauma.”<sup>84</sup>**

## 2. Lack of Context: SIRs Result From Behavior or Conduct Triggered by Detention Conditions and Trauma

Losing hope about their reunification, seeing no end to their detention, or receiving bad news about their loved ones in their home country—all of these can lead a child to despair and act out. SIRs rarely reflect this context and instead document a knee-jerk response to control behavior rather than meaningfully address the cause.

- **Children expressing a desire to reunite with family or be released**

*Context:* Children in ORR detention have little to no means of controlling the date of their release to their loved ones. Instead, the process is dependent on the availability of a person or family to “sponsor” them out of detention, which requires the potential sponsor to submit to extensive vetting. ORR has sole discretion to determine whether it is in the best interest of the child to be released to a sponsor. Some children go through the vetting of multiple potential sponsors, who may withdraw due to the many layers of intrusive review or out of fear of immigration consequences.

Survey respondents reported that SIRs were filed for children making statements to ORR staff expressing their desire to see relatives and experience life outside of ORR custody. ORR staff would document these statements in SIRs, often characterizing these statements as exhibiting “flight risk.” Children deemed a flight risk can be placed in more restrictive placements, such as staff secure or secure placements. Respondents reported that a child saying that they “want to leave” or another child jokingly asking a staff member whether “you can get me out of here” resulted in SIRs.

**"I found out they had written a report about me trying to escape. After that, I was put on one-on-one for two days so that I was never alone because they said I was trying to escape, but I wasn't. I just wanted to get away for a minute after I got the bad news about my sister."<sup>85</sup>**

- **Children manifesting detention fatigue**

*Context:* Children facing prolonged periods of custody often act out, especially as they witness other children get released more quickly. Past trauma coupled with this detention fatigue may lead children to spiral as they view their continued time in ORR custody as an unfair penalty.

Survey respondents reported that children often acted out because a potential sponsor’s application or foster placement was denied, causing children to despair. SIRs documenting children’s response to this news did not include this context for children’s behavior and desperation as they contemplated prolonged or indefinite custody. Without this critical context, SIRs provide an inaccurate and incomplete account of children’s behavior, reducing manifestations of detention fatigue and trauma to “aggression” or inappropriate behavior. SIRs often beget more SIRs, so long as children see no change in their predicament and do not receive the trauma-informed care they need.



Atrás queda mi pasado, un pasado que disfruté, pero un error cambió mi vida. Y ahora me encuentro en un lugar bajo cuatro paredes, y cuando miro al cielo veo un presente de angustias, dolor, rechazos y caídas. Pero muchas veces me digo a mi mismo: "Si pudiera cambiar mi pasado, no cambiaría nada porque gracias a los errores aprendí mucho."<sup>86</sup>



My past is behind me, a past I enjoyed but a mistake changed my life. And now I find myself in this place, behind four walls, and when I look to the skies, I see a present filled with anguish, agony, rejection, and missteps. But I often tell myself, "Even if I could change my past, I wouldn't change a thing because I learned a lot from the mistakes."

### 3. A pipeline to More Restriction: SIRs fuel step-ups and continued placement in restrictive custody instead of bolstering trauma-informed care.

Survey respondents reported that SIRs frequently lead to prolonged and restrictive custody, where children are more likely to engage in self-harm or act out due to trauma or frustration. As one youth in a secure facility put it, "I want to leave whenever, as long as it's not here." Desperation causes many children to abandon claims for relief and seek deportation back to the places they fled because they find the conditions in ORR custody, and/or the uncertainty of their prospects for release are intolerable.

- **Children displaying behavior that are manifestations of grief, trauma, or mental health symptoms**

*Context:* In ORR custody, children's trauma can manifest in multiple ways, as they may not have the tools, family or community contacts, or care they need to self-soothe or regulate their emotions. Sometimes, children experience grief over separation from family or because they learn of more violence afflicting their loved ones. ORR facility staff may characterize their behavior as aggressive or harmful to themselves or others, resulting in more restrictive placements.

#### **PUNISHING CHILDREN'S DISABILITIES**

SIRs are connected to another longstanding problem - children with disabilities being punished for behavior inherently related to disabilities, which are reported in SIRs, and disproportionately being stepped up and kept in restrictive placements for longer periods of time.<sup>87</sup> A 2019 report by Disability Rights California found that "ORR guidelines fail to take into adequate consideration whether a child's self-harming or disruptive behavior could be arising from unmet mental health needs, illnesses, or trauma."<sup>88</sup> ORR facilities have repeatedly been found to lack adequate mental health services,<sup>89</sup> and instead of addressing this longstanding problem, ORR has created a system in which children with mental health needs who manifest behavior linked to their disabilities have SIRs written up, are punished, and are held in restrictive settings, often in conditions that only exacerbate their mental health needs and compound their trauma.<sup>90</sup>

Survey respondents reported that youth received SIRs for manifestations of significant trauma. One respondent reported that facility staff often misperceive children as “acting out” when their mental health deteriorates. Children who have suffered abuse at the hands of authorities in their home country may feel triggered when monitored or restrained by ORR staff.

A respondent shared: “I worked with a youth who lost 2 family members while in ORR custody. Upon receiving the news, the youth disengaged from classes and group activities, and demonstrated symptoms of grieving. After a week or so, he started to engage in self-harming. Instead of exploring support, ORR transferred this youth to a secure jail facility, further isolating him. Instead of offering healing and options to express his grief, this youth was punished for struggling to accept the passing of relatives.”

- **Children disclosing past experiences of abuse or violence in confidence**

*Context:* Unaccompanied children frequently entrust personal information to their case managers, clinicians, or other adults they encounter in ORR custody. Their daily or weekly interactions with these staff naturally lead to children’s disclosure of details about their life and past experiences. ORR staff also proactively solicit details as they care for children and facilitate their release to family or transfer to foster care. However, those same individuals are also required to record children’s confidences in SIRs, such as when children disclose being abused or being coerced into involvement in gangs or other criminal groups. The information in these SIRs has often been used against children.

These transcribed disclosures in SIRs undermine children’s trust in ORR staff, especially when a child is stepped up because they opened up about their experiences. Survey respondents reported that children’s confidential disclosures resulted in SIRs. One respondent shared the example of a child’s disclosure of past domestic abuse in their home country resulting in an SIR. Another respondent reported that a youth had been stepped up to a secure facility because the youth disclosed past, coerced gang involvement to a trusted case manager and clinician. This respondent stated that the youth “was not aware that [their] having been so forthcoming with ORR staff could negatively affect [their] placement and [their] legal case.” Other respondents reported instances of children being mislabeled as gang-affiliated in SIRs, without context regarding their vulnerability or coercion, due to misunderstandings or because they lied to other children who were scaring them. Respondents also reported that these types of SIRs have been used by DHS against children in bond hearings and immigration proceedings and resulted in ORR requiring home studies for potential sponsors, which frequently add many weeks or months to a child’s time in ORR custody.

**“On another day, a staff member got upset with me because I told him he wasn’t good at solving problems, just for writing reports.”<sup>91</sup>**

# III. RECOMMENDATIONS

As detailed in this report, the problems with SIRs are myriad and systemic. A complete overhaul of ORR's incident reporting system is needed to center the safety, permanency, and wellbeing of children, and fulfill ORR's mandates to (1) provide each child in its care with individualized care that serves their unique needs; and (2) swiftly reunify children or place them in the least restrictive setting in their best interests.

The Young Center and NIJC recommend the following actions to ORR, explained in greater detail below:

1. Center trauma-informed care in all aspects of its system, in order to prevent and reduce the occurrence of serious incidents;
2. Prioritize the use of incident reporting to evaluate and monitor children's needs, staff response, and facility-wide issues;
3. Limit incident reporting to serious incidents and prevent over-reporting;
4. Prevent incident reports from being used as a form of discipline or punishment and instead conduct a holistic review of a child's file and needs when making placement or reunification decisions;
5. Implement safeguards to ensure that children have an opportunity to be heard on incident reports;
6. Prevent the disclosure of SIRs and other confidential information in children's files to DHS and other agencies that is contrary to children's best interests.

Finally, we recommend that ORR engage child welfare experts, child psychologists, de-escalation and crisis prevention experts, and former unaccompanied children, to inform a new approach to incident reporting. These stakeholders can provide critical feedback on what types of incidents are appropriate to document in incident reports, as well as effective staff training, oversight and accountability mechanisms, data and tracking needed (e.g., race, ethnicity, gender, disability, language, etc.), and best practices for the provision of holistic, trauma-informed care and crisis prevention.

## A PREFACE TO THESE RECOMMENDATIONS

SIRs provide a window to a number of systemic issues for children in ORR custody – inadequate mental health and support services, a lack of accommodations and services for children with disabilities, overreliance on step-ups and the use of restrictive facilities, the criminalization and over-policing of children, and the failure to promptly reunify children with family or place children in family-based settings. While our recommendations focus specifically on ORR's incident reporting system, it is important to preface our recommendations with a call for ORR to examine and address these deeply interconnected issues.

## **1. Center trauma-informed care in all aspects of its system, in order to prevent and reduce the occurrence of serious incidents**

Currently, ORR expends enormous resources and staff time on SIR forms—resources and staff time it should redirect towards integrating trauma-informed care throughout its network. Experts define trauma-informed care as "aim[ing] to transform entire systems of care by embedding an understanding of traumatic stress response 'in all aspects of service delivery and plac[ing] priority on the individual's safety, choice, and control.'"<sup>92</sup>

Importantly, it incorporates extensive preventative care rather than reactive responses.<sup>93</sup> A comprehensive trauma-informed system requires staff to undergo a deeper assessment of the "common set of assumptions about the factors underlying children's aggressive or unsafe behavior, an understanding that the manner in which limits are set and expectations pursued by adults may precipitate such behavior, and an emphasis on crisis prevention rather than crisis management."<sup>94</sup> This holistic approach has been proven to be effective, significantly reducing the need for using physical restraints or seclusion, and minimizing the re-traumatization of children through crisis prevention.<sup>95</sup>

Ongoing training of facility staff at all levels is critical for effective implementation.<sup>96</sup> Studies have shown that trauma-informed care models that focus specifically on improving children-staff relationships in residential care settings in the child welfare context can be effective in decreasing the number of behavioral incidents, including incidents of aggression, destruction of property, and children running away.<sup>97</sup>

### **In order to move towards this goal, we recommend that ORR:**

- Implement a trauma-informed system of care that recognizes the impact of trauma, the institutionalized nature and conditions of ORR custody, separation from family, and other stressors and that implements key conditions which allow children to adjust and cope well (e.g., clear communication and goal-setting, speedy reunification, minimal use of transfers, reward-based rather than punitive systems for children, access to regular contact with family members, etc.);
- Formally train all facility staff in trauma-informed care, crisis prevention, and effective de-escalation and adopt metrics to measure the impact of those trainings and implementation (e.g., the number of incident reports filed, the number of step-ups, and assessments of child wellbeing, development, and functioning);
- Set internal goals within facilities to significantly reduce the number of serious incidents and ensure monitoring and oversight of facilities in meeting these goals.



## **2. Prioritize the use of incident reporting to evaluate and monitor children’s needs, staff response, and facility-wide issues**

ORR’s response and follow-up to incidents should be the focus of its incident reporting system. ORR facilities should use incident reports to oversee the facility’s trauma-informed responses and the use of de-escalation techniques. The system should also assist ORR in evaluating the services and support that a child is currently receiving and may need to ensure that the child can remain in the least restrictive setting until release. In this way, incident reports become integrated into the system of trauma-informed care for children and provide accountability and oversight to ensure the provision of quality care to children.

ORR should also use incident reports to monitor for facility-wide and ORR-wide issues, including context and factors that exacerbate children’s behavior. In some instances, incident reports may indicate a systemic problem that warrants corrective measures. For example, if the same staff person or the same facility submits a significant number of incident reports involving children’s contact with law enforcement, ORR should investigate to determine whether the facility is contacting law enforcement only in appropriate circumstances or whether facilities require more training or additional guidance on effective de-escalation techniques, implicit bias, and trauma-informed practices.

### **We recommend that ORR:**

- Use incident reports as a metric to assess each child’s individualized needs and to evaluate whether ORR is effectively serving the child’s needs, and not to discipline or punish children;
- Require ORR facility staff to document the facility’s trauma-informed responses to an incident, the services a child is currently receiving, and the specific services, including mental health or disability-related services, that will be provided to ensure that the child receives the care they need and is placed in the least restrictive setting until they can be released;
- Require facility staff to document relevant information to contextualize children’s behavior and statements, including information regarding difficulties children may be experiencing in adjusting to the restrictive and isolated nature of ORR custody and the stress and uncertainties that surround the experience;
- Require facility staff to document in incident reports the specific de-escalation techniques that the staff employed, including specific verbal<sup>98</sup> and non-verbal<sup>99</sup> methods of de-escalation, and to explain how the staff approached the incident with a trauma-informed lens;
- Regularly review incident reports to monitor for facility-wide and ORR-wide issues that may need to be addressed with additional staff training or other corrective measures;
- Specifically monitor for incident reports involving interaction between children and law enforcement and arrests of children to assess whether law enforcement involvement is appropriate and to determine whether additional facility-specific or system-wide measures are needed to prevent arrests of children and involvement of law enforcement;
- Invite monitoring by an independent reviewer, such as an Ombudsperson, to provide oversight of ORR’s responses to serious incidents and to investigate children’s grievances and complaints when relevant.

### 3. Limit incident reporting to serious incidents and prevent over-reporting

With over 100,000 incident reports filed each year, it is nearly impossible for ORR to detect which incidents are, in fact, significant. As a result, serious incidents are not prioritized. To create a useful incident reporting system that ORR can effectively use to assess facility responses and to evaluate whether children are receiving the care, services, and support they need, ORR should document only serious incidents. Such incidents would be those that involve significant injury or significant risk to the safety and health of the child or other children, as well as those incidents which facilities are required to report to comply with state licensing and mandatory reporting requirements. ORR should reassess and limit the types of incidents that facilities are required to report through its incident reporting system, and provide clear guidance to facilities on what types of incidents should be reported.

We recognize that it may be helpful for ORR to document other information about children in ORR custody. Rather than document this information in incident reports, ORR should consider documenting this information elsewhere in children's files. For example, disclosures by children that they have been threatened, harmed, or targeted in the past should not be reported in incident reports, but likely merit review by mental health professionals to determine whether children need additional services. Logging such information elsewhere within the ORR file, rather than in incident reports, will enable ORR staff to respond in a manner that benefits children.

ORR should also monitor incident reports to ensure that facilities are not over-reporting. By preventing over-reporting, ORR can save valuable staff time and resources that are currently wasted on unnecessarily reporting incidents and reallocate those resources towards ensuring that children are receiving the support and services they need.

### CHILDREN LANGUISH IN RESTRICTIVE FACILITIES

A federal judge recently found that children “who are stepped-up to more restrictive settings spend more time in ORR custody than minors who remain only in shelters.” Data from November 2017 to March 2020 showed:

- An average stay of 183.8 days in secure and staff-secure facilities, versus an average of 52.6 days in shelter facilities. On average during that time period, children spent
- 176.5 days in a staff-secure facility;
- 185.9 days in a secure facility, i.e., a juvenile detention center;
- 236.3 days in a residential treatment center;
- 246.3 days in a therapeutic staff-secure facility;
- 327.2 days in out-of-network therapeutic placements.

These numbers show the nexus between restrictive placements and prolonged detention. One child spent at least 1,570 days, or more than four years in ORR facilities.<sup>101</sup>

## **We recommend that ORR:**

- Reassess the types of incidents that should be reported through ORR’s incident reporting system so that only serious incidents are documented;
- Issue clear guidance to facilities regarding what types of incidents should and should not be reported;
- Where appropriate and beneficial for children, use other logs to document information ORR facility staff need to flag for clinicians or ORR’s ongoing needs assessment for children, without resorting to filing incident reports;
- Implement oversight and monitoring to ensure that facilities are not over-reporting incidents and require corrective actions and additional training when necessary.

### **4. Prevent incident reports from being used as a form of discipline or punishment and instead conduct a holistic review of a child’s file and needs when making placement or reunification decisions**

To align ORR’s incident reporting system with ORR’s child welfare and wellbeing mandate, ORR should redesign its policies, procedures, and trainings to clearly separate incident reporting from discipline and punishment. Prioritizing behavior management<sup>100</sup> for children who have experienced trauma and who are separated from people they know and trust conflicts with ORR’s caregiving role. To clearly dissociate incident reports from discipline and punishment, ORR should affirmatively implement policies and procedures to ensure that ORR staff and facilities are not basing these decisions solely on incident reports.

To the extent that ORR relies on any information reported in an incident report, ORR should ensure that the report is reviewed holistically within the context of a child’s entire file. ORR should also ensure that it is not relying on information in an incident report that is based on a child’s behavior or actions that are a result of the child’s trauma, mental health needs, or disabilities. Rather than focus on incident reports, ORR should consider children’s circumstances that often underlie incidents, their developmental stage, and the services and supports that the facility should provide to keep children in the least restrictive setting.

#### **To begin this process, ORR should:**

- Decrease reliance on the current SIR system for the step-up of children to restrictive placements;
- Cease ORR’s policy of denying step-downs to children unless they have achieved a 30-day period without “behavioral” SIRs;
- When considering an incident report in the context of placement or other custody decisions, require consideration of timing—e.g., the amount of time that has passed since the incident report, whether the SIR occurred early on in a child’s placement when they may have been struggling to adjust, or whether the SIR occurred close in time to a difficult experience for the child, such as after a difficult phone call with a family member or after having received difficult news related to their immigration case or a potential sponsor;
- End the URM program policy of denying placement to children with recent incident reports;

- For children facing prolonged custody, limit the time period of incident reports reviewed for placement decisions, given the ongoing development of children;
- Prohibit less restrictive facilities, including foster placement programs, from denying placements to children on the basis of a child's SIRs, when ORR has already determined that a less restrictive placement is in the child's best interest.

## **5. Provide procedural safeguards to ensure that children have an opportunity to be heard on incident reports**

Our survey revealed that most children experience SIRs as threats or documents they learn about after the fact, with no ability to share their perspective or receive the assistance of attorneys and Child Advocates. Denying children the opportunity to be heard is an inherent stressor that drives many children to become frustrated, helpless, anxious, and hopeless, fueling further behavioral problems. It is critical for ORR to build in guardrails to ensure that children (a) have an opportunity to be heard, and (b) benefit from a holistic review that does not hinge on particular incident reports. Including children's perspectives and accounts will also ensure that incident reports are more accurate and complete, which will assist ORR in better assessing children's needs and how to respond to an incident.

### **As part of basic guardrails, ORR should:**

- Immediately notify the child that an incident report has been filed, provide the child with a copy, and ensure that the report is explained and translated for the child into the child's preferred language.
- Provide copies of the incident report immediately to the child's attorney, if the child has retained an attorney, or in the alternative, to the child's legal service provider, and their child advocate, if one has been appointed;
- Provide the child with the opportunity, with the assistance of an attorney, to respond to the information drafted in the report, provide any contextualizing information that is relevant to the incident, and provide corrections to the extent the incident report is incomplete or inaccurate. The child's response should be included in the incident report once review by their attorney or their legal service provider is complete;
- When considering SIRs for placement decisions, review whether the behavior may be the result of the stress and trauma of being in ORR custody, the lack of progress toward reunification, detention fatigue, the trauma of family separation, or other external factors that provide important context for the child's behavior. The existence of these factors should weigh against a decision to place or keep the child in a more restrictive setting, which is likely to only exacerbate the stress and trauma the child is already experiencing.

## **6. Prevent the disclosure of SIRs and other confidential information in children's files to DHS and other agencies that is contrary to children's best interests**

It is critical that confidential information in children's ORR case files, particularly incident reports and disclosures made by children to clinicians and other facility staff in confidence during their time in custody, is not shared with DHS or any other agency outside of ORR, unless required under state



licensing or mandatory reporting requirements. ORR's protection of children's confidential information is critical to promoting a sense of trust and safety for children and being able to provide individualized care that is in children's best interests. If children do not feel safe to disclose private information, ORR cannot effectively identify children's needs or provide the services children need to be safe and healthy.

**To protect children's privacy, ORR should:**

- Close loopholes for existing information sharing under the 2021 memorandum of agreement between ORR and DHS, that permits sharing incident reports in some instances;
- End the practice of sharing SIRs with ICE for children approaching the age of 18. This practice, not required under the law, opens up the door for ICE to draw improper conclusions from incident reports, regardless of whether incidents are accurately, completely, or fairly described;
- Monitor and prohibit sharing of SIRs with law enforcement and other agencies, unless required by state licensing or mandatory reporting, to prevent improper disclosure of children's confidential information. ORR should also immediately notify a child's attorney, legal service provider and Child Advocate of any breach of children's privacy.

## **IV. CONCLUSION**

There is no doubt that many individuals serving children in ORR custody share extraordinary concern for their safety and wellbeing. ORR's SIR system pales in relation to this care and fails to serve the strengths and needs of unaccompanied children. ORR must overhaul its incident reporting, not layer more rules that confuse staff and leave intact a failed system that harms children. We call on ORR to build a transparent incident reporting system within a comprehensive trauma-informed system of care that centers each child's strengths, experiences, and wellbeing and properly accounts for the stressors they face while in custody.

# APPENDICES

- Appendix A: Glossary
- Appendix B: Levels of Custody
- Appendix C: State Licensing Requirements
- Appendix D: Survey
- Appendix E: Sample SIRs

## Appendix A: Glossary

- **Child Advocate:** Modeled in part after state guardians ad litem, Child Advocates are authorized under the federal Trafficking Victims Protection Reauthorization Act (TVPRRA) to make best interests determinations that inform decisions by ORR and other government stakeholders regarding unaccompanied immigrant children's placement, care, family/sponsor reunification, immigration relief, and safe repatriation. Currently, the Young Center for Immigrant Children's Rights is the only organization in the country that provides independent Child Advocates, who are appointed by ORR to vulnerable unaccompanied immigrant children. Applying federal, state and international law and the evolving science of child development, the Young Center's Child Advocate program brings attorneys, social workers and volunteers together to accompany children in custody and zealously advocate for their best interests considering their expressed wishes and safety and their right to family unity, liberty, development and to maintain their identity.
- **Congregate Care Facilities:** Residential childcare facilities that provide 24-hour care and supervision for children. In the ORR system, congregate care facilities can range in restrictiveness to include group homes, shelters, residential treatment facilities, and juvenile corrections facilities. The TVRPA requires ORR to place children in the least restrictive facility available that is in the child's best interests.
- **Customs and Border Protection (CBP):** Housed within the Department of Homeland Security, CBP is the agency that first apprehends unaccompanied children who cross between and at U.S. ports of entry, including land borders. After children are apprehended, they are detained in CBP holding facilities. Under U.S. law, CBP is required to transfer unaccompanied children to ORR custody within 72 hours.
- **Department of Homeland Security (DHS):** DHS is a federal executive agency responsible for national border security, counterterrorism and the administration and enforcement of immigration laws. CBP and ICE are both housed under DHS. DHS is a party to the Flores Settlement Agreement (FSA).
- **Flores Settlement Agreement (FSA):** The Flores Settlement Agreement is a 1997 stipulated agreement between federal immigration agencies and a class of unaccompanied children in government custody. The FSA was the result of *Reno v. Flores*, 507 U.S. 292 (1993), which challenged the conditions and standards under which unaccompanied children are detained and released. Before the Flores Settlement, unaccompanied children in federal immigration custody were detained in prison-like conditions, alongside unrelated adults. The FSA established new standards governing the detention and release of children in federal custody. The FSA requires the government to place unaccompanied children with licensed care providers and to release them "from custody without unnecessary delay to a parent, legal guardian, adult relative, . . . or licensed program . . ." <sup>102</sup>

- **Homeland Security Act (HSA):** The Homeland Security Act is a 2002 law that established DHS and consolidated several agencies responsible for administering immigration laws and policies under the Department. The HSA also transferred responsibility for the care and custody of unaccompanied children from the former Immigration and Naturalization Service (INS) to the newly-created ORR Division of Children's Services.
- **Immigration and Customs Enforcement (ICE):** Housed within the Department of Homeland Security, ICE is the agency that seeks the removal of unaccompanied children in immigration court. ICE may also come into contact with unaccompanied children within the interior of the United States and initiate enforcement actions such as placing the child back into custody. If children turn 18 while in ORR custody, ICE assesses whether to take them into ICE custody. For more on this, see section I.2.
- **Legal Service Provider (LSP):** Legal service providers are typically nonprofit organizations that provide legal assistance, direct representation, or partner with pro bono law firms to provide free services to unaccompanied children. LSPs also inform children of their rights while in ORR custody; unless families retain private counsel, LSPs are also children's first line of contact when they need legal assistance. Roughly 50% of unaccompanied children in removal proceedings are unrepresented.<sup>103</sup> If they cannot offer representation to a child, LSPs may appear as Friend of Court for unrepresented children in ORR custody to assist them in better understanding proceedings and expressing their wishes to the court. LSPs subcontract with ORR for their services to children in detained and released settings.
- **Office of Refugee Resettlement (ORR):** ORR is a federal government agency housed within the Administration for Children and Family Services of the Department of Health and Human Services (HHS). ORR provides support and services to refugees, asylees, victims of human trafficking, and unaccompanied children. Under the Homeland Security Act of 2002, responsibility for the care and custody of unaccompanied children in government custody was transferred from the former Immigration and Naturalization Service to ORR. ORR is bound by the Flores Settlement Agreement, explained further below.
- **ORR facilities:** Childcare agencies that contract with ORR to shelter and care for unaccompanied immigrant children in the agency's custody. Staff include case managers and clinicians, as well as other adults tasked with caring for children while in ORR custody.
- **Significant Incident Reports (SIRs):** Significant Incident Reports document incidents and information regarding unaccompanied children in ORR custody, ranging from disclosures by children to clinicians or facility staff to physical injury and behavioral issues. ORR requires facility staff and ORR staff to report incidents "affecting unaccompanied children's safety and well-being."<sup>104</sup> Under ORR policies, ORR facilities are required to submit SIRs for all incidents that "fall under one of three reporting categories: 1) emergency incidents, 2) significant incidents, or 3) program-level events."<sup>105</sup> ORR defines "significant incidents" as "situations that affect but do not immediately threaten the safety and well-being of a child."<sup>106</sup>
- **Trafficking Victims Protection Reauthorization Act (TVPRA):** The Trafficking Victims Protection Reauthorization Act was passed in 2008 and outlines key legal procedures for unaccompanied children from contiguous (countries sharing a common border) and noncontiguous countries, including timelines for screening for trafficking risk, family reunification and safe repatriation. The TVPRA authorizes HHS to provide unaccompanied children access to counsel, legal know-your-rights presentations, as well as child advocates for trafficked and vulnerable children.

- **Unaccompanied Refugee Minor Program (URM):** The Unaccompanied Refugee Minor Program is a program that provides foster care services and benefits to unaccompanied children without family or viable sponsors to care for them in the United States. The URM program accepts on a case-by-case basis children under 18 who are determined to be refugees, asylum-seekers, trafficking survivors, or eligible for Special Immigrant Juvenile Status or U-visas. URM services include foster home placement, case management, mental health services, access to legal representation, and indirect financial support for food, clothing, healthcare and housing. The program also affords children educational assistance, including college counseling and life skills training and English language training to support self-sufficiency.

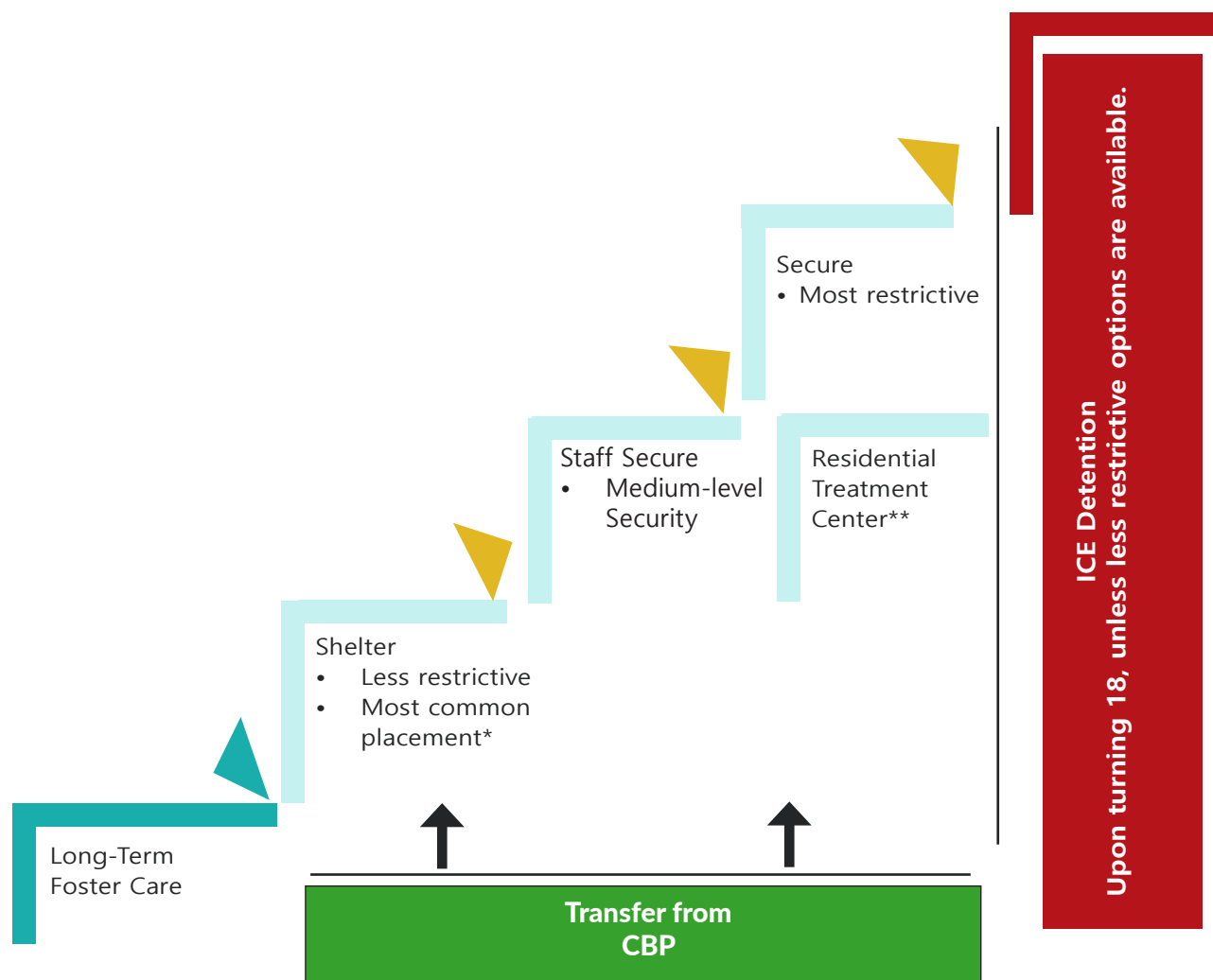


## Appendix B: Levels of Custody for Unaccompanied Children

- **Transitional Foster Care (TFC):** After contact with CBP at the border, a small number of children are transferred to TFC placements. Children in TFC live with foster families and receive educational services at a facility run by TFC facility staff. Children also receive other required services such as clinical and case management services at the TFC site. TFC is restricted to children under 13 years old, sibling groups with one sibling under 13 years old, pregnant or parenting teens, or children with special needs.<sup>107</sup> However, TFC capacity is often insufficient, so children in these populations are frequently placed in shelters. As of May 31, 2022, 7 percent of children in ORR custody were in TFC placements.<sup>108</sup>
- **Shelter Facilities:** Upon contact with CBP at the border, most children are transferred into shelter placements, where all services are provided to children on-site. These are congregate care settings that vary widely in size, with the majority holding more than 25 children and a significant number holding hundreds of children.<sup>109</sup> These placements are intended to be temporary. As of May 31, 2022, 6,294 children (62 percent of all children in ORR custody) were held in shelters.<sup>110</sup>
- **Influx Facilities:** ORR defines these facilities as facilities that “open temporarily to provide emergency shelter and services for UAC during an influx or emergency.”<sup>111</sup> These facilities are not state-licensed and are therefore not subject to the standards and oversight of state licensing. Generally, ORR places children who are 13 years old or older and expected to be released to a sponsor within 30 days at these facilities and will prioritize placement/transfer of children with specific needs, such as those with known medical or mental health needs and pregnant or parenting teens, in licensed facilities. Influx facilities are large-scale facilities that hold hundreds and even thousands of children. Their level of restriction is similar to a shelter facility. As in shelter facilities, children receive services on-site. As of July 2022, ORR had two influx facilities with plans to open up more.<sup>112</sup>
- **Emergency Intake Sites (EIS):** In 2020, ORR created this new type of emergency facility. According to ORR, these facilities are opened when there is “a severe shortage of standard state-licensed facilities and influx care facilities” and “are designed for mass care with basic standards to meet immediate sheltering needs of unaccompanied children.”<sup>113</sup> They “are not designed or intended to provide the full range of services available at traditional ORR care provider facilities or even Influx Care Facilities.”<sup>114</sup> Like influx facilities, these facilities are not state-licensed and are therefore not subject to the standards and oversight of state licensing. These facilities are massive and are designed to hold thousands of children. Their level of restriction is similar to a shelter facility. In 2020, ORR opened 14 EISs across the country; they gradually shut down 12 facilities. As of June 2022, ORR had converted its two remaining EISs into influx facilities.<sup>115</sup>
- **Staff Secure Facilities:** These facilities are the next most restrictive setting with stricter security measures, such as higher staff-to-children ratio for supervision, than a shelter. They are also congregate care settings. As of May 31, 2022, 26 children were being held in staff secure and ORR had a total of 82 beds in these facilities.<sup>116</sup> In determining whether to place a child in a staff secure facility, ORR considers a number of factors, including whether the child “has been unacceptably disruptive to the normal functioning of a shelter care provider facility”.<sup>117</sup>

- **Residential treatment centers (RTC):** These are restrictive facilities in which ORR places a child when it determines that the child has a psychiatric or psychological issue that cannot be addressed in an outpatient setting. According to ORR policy, a child can only be placed in an RTC if the child is determined to be a danger to self or others by a licensed psychologist or psychiatrist.<sup>118</sup> As of May 31, 2022, 18 children were being held in RTCs, and ORR had a total of 49 beds in RTCs.<sup>119</sup>
- **Secure Facilities:** These “jail-like”<sup>120</sup> facilities are the most restrictive setting in the ORR system. Under the TVPRA, ORR “shall not [place a child] in a secure facility absent a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense.”<sup>121</sup> There is currently one secure facility, with up to 24 beds. As of May 31, 2022, 9 children were being held in secure facilities.<sup>122</sup>
- **Long-term foster care (LTFC):** The least restrictive long-term custodial setting is long-term foster care, where children are able to attend local schools and live with a family who is trained to receive and care for unaccompanied children. Placement in LTFC is restricted to children who do not have family to whom they can be released. Under ORR policy, children whom ORR deems to pose a moderate to high escape risk or to have “a history of significant criminal activity or violence who may pose a threat of harm to self, others (including the foster family), or community” are ineligible for LTFC.<sup>123</sup> Placement in LTFC may pave the way for placement in ORR’s Unaccompanied Refugee Minor (URM) program, which provides additional services and housing for unaccompanied youth until their early twenties.

# LEVELS OF CUSTODY FOR UNACCOMPANIED CHILDREN AND YOUTH



\* A small number of children are transferred from CBP to transitional foster care (TFC) placements, in which children live with foster families until they are released. Children under 13 years old are prioritized for TFC placement.

\*\* Residential treatment centers are generally restrictive, akin to staff secure facilities, but are not systematically classified for their security level. ORR has also recently added “therapeutic group homes,” which are less restrictive facilities than RTCs and are intended to provide additional supports and services for children with therapeutic needs. Like RTCs, they are not systematically classified for their security level.]

**Note:** Children who turn 18 or “age out” of ORR custody may be transferred to adult ICE detention or released. ICE is required to consider the youth’s danger to self, danger to the community, and risk of flight in deciding whether to take the youth into ICE custody. Due to a class action lawsuit, most children who turn 18 are no longer transferred to ICE detention. However, every child approaching their 18th birthday faces the risk of ICE detention—a risk that is compounded as ORR routinely shares SIRs or information related to children’s SIRs with ICE, often presenting a troubling and reductive picture of children that punishes children for behavior related to their trauma, disabilities, and custody conditions. **See Section I.2.b for more information.**

## Appendix C: State Licensing and Mandatory Reporting Requirements

The following table outlines the types of incidents that residential childcare facilities are required to report under state licensing regulations and mandatory reporting laws in the five states with the highest number of ORR facilities. Reporting requirements under state licensing and mandatory reporting laws largely focus on incidents of abuse, neglect, or immediate threat of harm. In contrast, ORR's incident reporting requirements are much broader and explicitly cover incidents that do not immediately threaten the safety and wellbeing of a child.

State	Incident Reporting Requirements Under State Licensing Regulations and Standards	Requirements Under Mandatory Reporting Laws
<b>Arizona</b>	ORR facilities are required to report any "incident," defined as "an unexpected occurrence that harms or has the potential to harm" a child, <sup>125</sup> including "an actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety or well-being of a [child] at the facility..." <sup>126</sup> web	ORR facilities are required to report to state law enforcement if staff "reasonably believe that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or...deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant ..." <sup>127</sup>
<b>California</b>	ORR facilities are required to report the "death of any [child] from any cause," "[a]ny injury which requires medical treatment; "[a]ny unusual incident or [child] absence which threatens the physical or emotional health or safety of any [child];"[a]ny suspected physical or psychological abuse of any [child]; epidemic outbreaks; poisonings; catastrophes; and fires or explosions on the premises. <sup>128</sup>	ORR facilities are required to report to their county welfare department within 36 hours if they "reasonably suspect (a child in their care) has been the victim of child abuse or neglect..." <sup>129</sup>
<b>Illinois</b>	ORR facilities are required to report abuse, neglect, sexual abuse/assault, self-inflicted injury, accidental injury, restraint, erroneous dispensation of medication, adverse reaction to or refusal of medication, medical or psychiatric emergencies, hospitalization, suspension or expulsion from school, criminal arrest or conviction/adjudication of delinquency, manual restraint, seclusion, runaways, weapons possession, suspected alcohol or substance abuse, "sexually problematic behavior", "sexually aggressive behavior", pregnancy or parenting, kidnapping, suicidal ideation or attempts, property damage of \$50 or more, "aggressive" acts, accidents or death. <sup>130</sup>	ORR facilities are required to report to the state licensing agency if they "have reasonable cause to believe that a child known to them in their professional or official capacity may be abused or neglected." <sup>131</sup>

<p><b>New York</b></p>	<p>ORR facilities are required to report “the death of any child in foster care to [state licensing agency], within 24 hours... and any injury to a child in foster care which requires the services of a physician and which, in the opinion of such physician, may cause death, serious disability or disfigurement.”<sup>132</sup></p> <p>All ORR facilities who contract with the NY City Administration of Children’s Services (ACS) are also required to report to the ACS Office of Shared Response within 24 hours (or the next business day) any “reportable incident”, which includes arrests, physical injuries, illnesses requiring emergency medical intervention, planned hospitalizations, destruction of property, and self-injurious behavior.<sup>133</sup> If the “reportable incident” is “likely to have a serious impact which adversely affects the health, safety, and/or security of (1) youth; (2) staff; (3) family; and/or (4) the community (e.g., birth and death), or has a significant impact on a facility or the agency”, it must be reported immediately.<sup>134</sup></p>	<p>ORR facilities are required to report “when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child.”<sup>135</sup></p> <p>Facilities are also required to report to the State Central Register any incident of neglect, physical, psychological or sexual abuse, including the inappropriate use of restraints, seclusion, and other “significant incident”, which is defined as “an incident...that because of its severity or the severity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety or welfare of a [child]...”<sup>136</sup></p>
<p><b>Texas</b></p>	<p>ORR facilities are required to report “serious incidents,” also defined as “a non-routine occurrence that has or may have dangerous or significant consequences for the care, supervision, or treatment of a child,”<sup>137</sup> including: a child's death; substantial or critical injury or illness; allegations of abuse, neglect or exploitation of child, criminal charge or arrest, unauthorized absence (with requirements varying depending on age of child); and suicide attempts. Facilities are also required to report “[a]ny incident that renders all or part of [facility’s]operation unsafe or unsanitary for a child (fire or flood); any disaster or emergency that forces closure of operation; and the use of a prohibited emergency behavior intervention or personal restraint technique and the use of a behavior intervention inappropriately.<sup>138</sup></p>	<p>ORR facilities are required to report their suspicions “if there is cause to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse or neglect.”<sup>139</sup></p>



## Appendix D: Survey

# Significant Incident Report (SIR) Survey

Thank you for responding to this brief survey of providers that serve children in ORR custody regarding the practice and use of SIRs and their impact on children in ORR custody .

[Sign in to Google](#) to save your progress. [Learn more](#)

\* Required

Name (optional):

Your answer

Email (optional):

Your answer

Can we reach out to you if we have follow-up questions? \*

Yes

No

During what time period have you worked with children who received SIRs? (for example, 2019-present) \*

Your answer

Are the Significant Incident Reports (SIR) you have seen for children detained in \*  
(please check all that apply):

- Shelter-level
- Secure
- Staff Secure
- Long Term Foster Care
- Short Term Foster Care?

**SIR Examples:**

Could you provide examples (by describing in general terms) of the following types of SIRs? (Note: please protect confidentiality for each example provided; on our end, we won't share any identifying information with ORR.)

(1) SIRs for minor infractions/incidents

Your answer

(2) SIRs for typical, age-appropriate child behavior, that would not be deemed serious outside of ORR

Your answer

(3) SIRs for behavior related to conditions of custody (e.g., acting out when release denied), related to difficult news or conversations with child's relatives, or related to prior traumatic experiences (e.g., reactions to adults who reminded child of home country perpetrator)

Your answer



(4) SIRs for children with disabilities (particularly psychosocial disability and/or developmental disability) for incidents that relate to their disability

Your answer

(5) SIRs for self-disclosures, such as disclosures related to child's involvement with a gang/cartel/other organization (whether coerced, minimal, or not), to other children, a trusted case manager or staff; or disclosures made in the course of counseling, medical treatment or other spaces a child might consider confidential, where self-disclosures relied upon to place or keep child in restrictive placement

Your answer

(6) SIRs ICE relied upon to detain kids in ICE upon age-out of ORR custody

Your answer

(7) SIRs used by USCIS or ICE as evidence against the child in the child's immigration case

Your answer

Based on the examples you shared, did the child understand that an SIR was filed? Was the child provided a copy of the SIR? Did the child have an opportunity to contest its allegations?

Your answer



Based on the examples you shared, how did the SIR impact the child? (e.g., no impact, emotional distress, step-up, denied placement, denied or delayed release to sponsor, sponsor withdrawal, or desire to seek voluntary departure, etc.)

Your answer

Are there any redacted SIRs you would be able to share? If so, please provide your \* email above. Note: we will not share any identifying information or redacted SIR with any party prior to consulting with you.

Yes

No

Submit

Clear form

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Google Forms



Appendix E: SIR Samples

UAC Basic Information	
First Name:	██████████
Last Name:	██████████
Date of Birth:	██████████
A No.:	██████████
Age:	██
Child's Country of Birth:	██████████
Admitted Date:	██████████
ORR Placement Date:	██████████
Status:	██████████
AKA:	██████████
Gender:	██
LOS:	██
LOC:	██
Current Program:	██████████
Current Location:	██████████

Event Type: SIR Event

Date of Event: ██████████

Time of Event: 01:00 PM

Event ID: ██████████

Synopsis of Event: A contraband cell phone was confiscated from student; student is presenting with suspicious concerning behavior consistent with flight risk

Significant Incident Report (Addendum)	
<input type="radio"/> Emergency SIR <input checked="" type="radio"/> SIR	
<b>SIR</b>	
<input type="checkbox"/> Abuse/Neglect in ORR Care	Type of Abuse/Neglect: ---Select--- Alleged Perpetrator: ---Select---
<input type="checkbox"/> Past Abuse/Neglect Not in ORR Care	<input type="checkbox"/> Abuse In Home Country <input type="checkbox"/> Neglect/Abandonment in the Home Country <input type="checkbox"/> Abuse In United States <input type="checkbox"/> Abuse In DHS Custody <input type="checkbox"/> Physical Abuse In ICE Custody <input type="checkbox"/> Sexual Abuse In ICE Custody <input type="checkbox"/> Physical Abuse In CBP Custody <input type="checkbox"/> Sexual Abuse In CBP Custody <input type="checkbox"/> Other Specify:
<input type="checkbox"/> Behavioral Incidents that do not threaten immediate safety	<input type="checkbox"/> Possession of a Weapon <input type="checkbox"/> Suicidal Ideation <input type="checkbox"/> Verbal Aggression <input type="checkbox"/> Destruction of property <input type="checkbox"/> Past Self-Harm <input type="checkbox"/> Other Specify:
<input type="checkbox"/> Incidents Involving Law Enforcement	<input type="checkbox"/> Physical Aggression <input type="checkbox"/> Use of Drugs and/or Alcohol in ORR Custody <input type="checkbox"/> Self-Harm without medical Intervention <input type="checkbox"/> Past Suicidal Attempt/Gesture
<input type="checkbox"/> Safety Measures	<input type="checkbox"/> Search <input type="checkbox"/> Interview <input type="checkbox"/> Other Specify:
<input type="checkbox"/> Criminal History	<input type="checkbox"/> Investigate/Response <input type="checkbox"/> Arrest
<input type="checkbox"/> Pregnancy Related Issues	<input type="checkbox"/> One-on-One Supervision <input type="checkbox"/> Use of Restraints <input type="checkbox"/> Pat-Down or Other Searches
<input type="checkbox"/> Potential Fraud Schemes	<input type="checkbox"/> Significant Criminal History in Home Country <input type="checkbox"/> Significant Criminal History in United States <input type="checkbox"/> Other Specify:
<input type="checkbox"/> Other	<input checked="" type="radio"/> Pregnancy <input type="radio"/> Childbirth <input type="radio"/> Termination Request Please describe how the pregnancy occurred and if there are any medical complications related to the pregnancy:
<input type="checkbox"/> Other	<input type="checkbox"/> Confidence Scheme <input type="checkbox"/> Document/Information Fraud
<input checked="" type="checkbox"/> Other	<input type="checkbox"/> Contact or Threats to UC while in ORR Care (from smuggling syndicates, organized crime, other criminal actors) <input type="checkbox"/> Separated from Parent/Legal Guardian <input type="checkbox"/> Previous Enrollment in the DHS Migrant Protection Protocols Programs <input checked="" type="checkbox"/> Other A contraband cell phone was confiscated from student; student is presenting with suspicious concerning behavior consistent with flight risk Specify: concerning behavior consistent with flight risk
<b>Incident Information:</b>	



Did the incident take place at another care provider facility?  Yes  No Care Provider Name: -- Select Provider Name --  
 Care Provider City: -- Select Provider City -- Care Provider State: -- Select Provider State --

Location of Incident: Housing Area Date Reported To Care Provider: [Redacted] Time Reported To Care Provider: 01:00 PM  
 Other Specify: [Redacted] Date Reported To ORR: [Redacted] Time Reported To ORR: 05:40 PM

Description of Incident (History)

Prior Text	Date Updated	Submitted By
<p>[Redacted] This writer was walking by [Redacted] cottage when she observed [Redacted] acting suspiciously. This writer observed [Redacted] and another [Redacted] walking the perimeter wall of the campus with a broomstick. Based on this writer's observations it appeared that [Redacted] and the other [Redacted] were using the broomstick to measure the height of the perimeter wall [Redacted] and the other [Redacted] were asked by Coach Counselor [Redacted] as to why they were walking around with the broomstick which both the UCs laughed and proceeded to walk to [Redacted] cottage. While walking to [Redacted] cottage this writer observed [Redacted] sitting outside the cottage looking down with an object in his hands. This writer proceeded to inform Group Supervisor [Redacted] regarding the observation of [Redacted] being seen outside with an object that could possibly be a phone. Group Supervisor [Redacted] proceeded and asked [Redacted] if he had a phone in his possession in which he confirmed that he did have a cellphone which was left by another [Redacted] that was discharged on [Redacted]. Group Supervisor [Redacted] collected the cellphone and reminded [Redacted] about the technology contract. Please note the cellphone that was found in the possession of [Redacted] was from a [Redacted] who was discharged on [Redacted] and it was a local re-identification in [Redacted].</p>	8:24:59 PM	[Redacted]

Description of Incident: (Full Description of Incident) [Redacted] CL [Redacted] attempted to Follow Up regarding SIR Event # [Redacted]. UC refused to meet individually with CL. Due to UC not wanting to meet with CL, CL conducted a family session on this same date ([Redacted] with UC's parents along with Case Manager, this session was conducted with the purpose of providing information to UC's family regarding services being provided to UC and care plan in place as well as UC's behavior in the last month. [Redacted] requested then to speak to UC. UC was called to the office, initially, UC refused to comply, after another attempt and informing him about the phone call, UC came and spoke to his mother for about 5 to 7 min and ended the phone call. CL reached out to [Redacted] once again [Redacted] explained that UC had agreed to "behave well". Family session can be found uploaded to the document section of Portal. Please note that since February 16th it has been observed that UC has not engaged, or has denied wanting to participate during individual clinical sessions. All dates and description can be found in each individual session from [Redacted] on in the document section of the portal.

Was the UAC or Anyone Else Injured?:  Yes  No Specify: N/A

Actions Taken

Staff Response and Intervention (History)

Prior Text	Date Updated	Submitted By
<p>[Redacted] This writer notified Program Director [Redacted] Group Supervisor [Redacted] Program Manager [Redacted] Lead Clinician [Redacted] Assigned Case Manager [Redacted] and Assigned Clinician [Redacted] about the incident. Group Supervisor [Redacted] and Group Living Staff will conduct a contraband search. The program will ensure that staff remains vigilant.</p>	8:24:59 PM	[Redacted]

Staff Response and Intervention [Redacted] CL Attempted to meet with UC, however UC denied. CL and CM conducted a Family Session to utilize parent's support to address his behavior.

Follow-up and/or Resolution (History)

Prior Text	Date Updated	Submitted By
<p>[Redacted] Group Supervisor [Redacted] and Group Living Staff will conduct a contraband search. [Redacted] has been placed on staff shadow until further notice due to his suspicious behavior, which places him as a high flight risk for being a runaway and for being in possession of a cellphone. This program will be elevating the case to FFS for a potential transfer, as student has also demonstrated non-compliance with some of the services provided in the last month.</p>	8:24:59 PM	[Redacted]

Follow-up and/or Resolution: [Redacted] Clinician will continue attempting to address UC's behavior of non-compliance to clinical and group sessions.

Recommendations (History)

Prior Text	Date Updated	Submitted By
<p>[Redacted] Assigned Clinician and assigned Case Manager will follow up to see if additional information is provided.</p>	8:24:59 PM	[Redacted]

Recommendations: [Redacted] Clinician will continue attempting to address UC's behavior of non-compliance to clinical and group sessions.

Reporting:

Reported To State Licensing:  Yes  No Date of Report: [Redacted] Time of Report: [Redacted]

Was the Incident Investigated?  Yes  No      Date Notified the Incident will be investigated:      Case/Confirmation Number:

Explain: N/A

Progress of Investigation (History)

Results/Findings of Investigation (History):

Results/Findings of Investigation: N/A

Attach Reports/Findings:

Is CPS Different From State Licensing:  Yes  No

Reported To CPS:  Yes  No      Date of Report:      Time of Report:

Was the Incident Investigated?  Yes  No      Date Notified the Incident will be investigated:      Case/Confirmation Number:

Explain: N/A

Results/Findings of Investigation: N/A

Attach Reports/Findings:

Reported To Local Law Enforcement:  Yes  No      Date of Report:      Time of Report:

Officer Name:      Officer Badge:

Was the Incident Investigated?  Yes  No      Date Notified the Incident will be investigated:      Case/Confirmation Number:

Explain: N/A

Progress of Investigation (History)

Results/Findings of Investigation (History):

Results/Findings of Investigation: N/A

Attach Reports/Findings:

ORR Notifications:

Name	Agency/Title	Date Notified	Time Notified	Email	Telephone Number
[Redacted]	[Redacted]	[Redacted]	05:40 PM	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	05:40 PM	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	05:40 PM	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	05:40 PM	[Redacted]	[Redacted]

Other Notification:

Is this an SIR for a Runaway?  Yes  No

Title	Name	Date Notified	Time Notified	Method of Notification	Specify:
ICE Juvenile Coordinator	[Redacted]	[Redacted]	[Redacted]	Phone	[Redacted]

Reporter and Follow-Up Contact:

Type	Name	Title	Email	Telephone Number
Staff Filing Report	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Contact for Follow-Up	[Redacted]	[Redacted]	[Redacted]	[Redacted]

# SAMPLE SIR 2

## UAC Basic Information

	First Name:		Status:	
	Last Name:		AKA:	
	Date of Birth:		Gender:	
	A No.:		LOS:	
	Age:		LOC:	
	Child's Country of Birth:		Current Program:	
	Admitted Date:		Current Location:	
	ORR Placement Date:			

Event Type: SIR Event

Date of Event: [REDACTED]      Time of Event: 02:00 PM      Event ID: [REDACTED]

Synopsis of Event: Minor ran out the building through the emergency exit door to be in the perimeter because he was bored of being inside.

## Significant Incident Report

Emergency SIR <input checked="" type="radio"/> SIR			
SIR			
<input type="checkbox"/> Abuse/Neglect in ORR Care	Type of Abuse/Neglect:	Alleged Perpetrator:	---Select---
<input type="checkbox"/> Past Abuse/Neglect Not in ORR Care	<input type="checkbox"/> Abuse In Home Country <input type="checkbox"/> Neglect/Abandonment in the Home Country <input type="checkbox"/> Abuse In UnitedStates <input type="checkbox"/> Abuse In DHS Custody <input type="checkbox"/> Physical Abuse In ICE Custody <input type="checkbox"/> Sexual Abuse In ICE Custody <input type="checkbox"/> Physical Abuse In CBP Custody <input type="checkbox"/> Sexual Abuse In CBP Custody <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Abuse On Journey <input type="checkbox"/> Neglect/Abandonment in the United States <input type="checkbox"/> Other Specify:	---Select---
<input checked="" type="checkbox"/> Behavioral Incidents that do not threaten immediate safety	<input type="checkbox"/> Possession of a Weapon <input type="checkbox"/> Suicidal Ideation <input type="checkbox"/> Verbal Aggression <input type="checkbox"/> Destruction of property <input type="checkbox"/> Past Self-Harm <input checked="" type="checkbox"/> Other Specify: Minor ran outside the building to be in the perimeter without asking a staff member.	<input type="checkbox"/> Physical Aggression <input type="checkbox"/> Use of Drugs and/or Alcohol in ORR Custody <input type="checkbox"/> Self-Harm without medical Intervention <input type="checkbox"/> Past Suicidal Attempt/Gesture	
<input type="checkbox"/> Incidents Involving Law Enforcement	<input type="checkbox"/> Search <input type="checkbox"/> Interview <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Investigate/Response <input type="checkbox"/> Arrest	
<input type="checkbox"/> Safety Measures	<input type="checkbox"/> One-on-One Supervision <input type="checkbox"/> Use of Restraints <input type="checkbox"/> Pat-Down or Other Searches		
<input type="checkbox"/> Criminal History	<input type="checkbox"/> Significant Criminal History in Home Country <input type="checkbox"/> Significant Criminal History in United States <input type="checkbox"/> Other Specify:		
<input type="checkbox"/> Pregnancy Related Issues	<input checked="" type="radio"/> Pregnancy <input type="radio"/> Childbirth <input type="radio"/> Termination Request <p style="text-align: center;"><b>Please describe how the pregnancy occurred and if there are any medical complications related to the pregnancy:</b></p>		
<input type="checkbox"/> Potential Fraud Schemes	<input type="checkbox"/> Confidence Scheme <input type="checkbox"/> Document/Information Fraud		
<input type="checkbox"/> Other	<input type="checkbox"/> Contact or Threats to UC while in ORR Care (from smuggling syndicates, organized crime, other criminal actors) <input type="checkbox"/> Separated from Parent/Legal Guardian <input type="checkbox"/> Previous Enrollment in the DHS Migrant Protection Protocols Programs <input type="checkbox"/> Other Specify:		

Incident Information:

**Did the incident take place at another care provider facility?**  Yes  No **Care Provider Name:** -- Select Provider Name --  
**Care Provider City:** -- Select Provider City -- **Care Provider State:** -- Select Provider State --

<b>Location of Incident:</b>	School Area	<b>Date Reported To Care Provider:</b>	██████	<b>Time Reported To Care Provider:</b>	02:00 PM
<b>School Area:</b>	On-Site	<b>Date Reported To ORR:</b>	██████	<b>Time Reported To ORR:</b>	07:00 PM

**Description of Incident: (Full Description of Incident)** On ██████ at approximately 2PM, minor ██████ was in the hallway refusing to go to class and to follow programming and all of the sudden minor ran out of the building through the south side emergency exit door. Staff members ██████ ran behind him. Program Manager ██████ and Interim Associate Director ██████ came out to support the staff as well. Minor was running around the building's perimeter until staff members were able to catch up with him and sit together in the bench located in the south side of the perimeter. ██████ called for a translator to support the staff to help de-escalate the minor. While waiting for the translator, minor grabbed a baseball size rock and threw it against the building's wall. No one was hurt when he threw the rock. Then minor stood up the bench to reach out to the tree and pulled some leaves and seeds and put them in his mouth. When translator arrived, he was asked to take the leaves and seeds out of his mouth and he did. Minor was asked why he came running outside without asking for permission and he stated that he was bored of being locked up in this place and he does not like the teacher's class. Minor was reminded the importance of always asking for a staff member before going outside for his own safety and minor just shrugged. Then minor went up the stairs of the emergency exit, sat on the fence and started to swing back and forth. ██████ rushed to stand on his back to catch him if minor were to fall. Minor was asked to please stand up and he complied after 3 prompts. Minor was asked if he was cold and if he would like to go inside and he said yes, and walked in with staff members ██████ and sat in the lobby to chat. Minor was calmed after 15 minutes and decided to return to programming.

**Was the UAC or Anyone Else Injured?:**  Yes  No **Specify:**

**Actions Taken**

**Staff Response and Intervention:** Staff redirected minor to positive behaviors and safe activities. Staff offered minor emotional support and reminded him the importance of his safety. Staff allowed minor space when necessary to deescalate and was able to help him back to programming.

**Follow-up and/or Resolution Recommendations:** An SIR has been completed to notify of the event to our stakeholders. Minor continues to be on a 1:1 supervision. Staff continues to engage minor and encourage him to participate in programming to develop appropriate, positive relationships with the staff and other children.

**Reporting:**

<b>Reported To State Licensing:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>		<b>Time of Report:</b>	
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>		<b>Case/Confirmation Number:</b>	
<b>Explain Results/Findings of Investigation:</b>	<hr/> <hr/>				
<b>Attach Reports/Findings:</b>	<hr/> <hr/>				

**Is CPS Different From State Licensing:**  Yes  No

<b>Reported To CPS:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>		<b>Time of Report:</b>	
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>		<b>Case/Confirmation Number:</b>	
<b>Explain Results/Findings of Investigation:</b>	<hr/> <hr/>				
<b>Attach Reports/Findings:</b>	<hr/> <hr/>				

<b>Reported To Local Law Enforcement:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>		<b>Time of Report:</b>	
		<b>Officer Name:</b>		<b>Officer Badge:</b>	
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>		<b>Case/Confirmation Number:</b>	
<b>Explain Results/Findings of Investigation:</b>	<hr/> <hr/>				
<b>Attach Reports/Findings:</b>	<hr/> <hr/>				

**ORR Notifications:**

Name	Agency/Title	Date Notified	Time Notified	Email	Telephone Number
██████	ORR/FFS	██████	07:00 PM	██████	██████

	ORR/PO		07:00 PM	
	Medical Coordinator			
	Case Coordinator		07:00 PM	
	CFS		07:00 PM	
	SIR Hotline			

**Other Notifications:**

**Is this an SIR for a Runaway?**     Yes  No

Title	Name	Date Notified	Time Notified	Method of Notification	Specify
ICE Juvenile Coordinator				Phone	

**Reporter and Follow-Up Contact:**

Type	Name	Title	Email	Telephone Number
Staff Filing Report				
Contact for Follow-Up				



# SAMPLE SIR 3

## UAC Basic Information

[REDACTED]	<b>First Name:</b> [REDACTED] <b>Last Name:</b> [REDACTED] <b>Date of Birth:</b> [REDACTED] <b>A No.:</b> [REDACTED] <b>Age:</b> [REDACTED] <b>Child's Country of Birth:</b> [REDACTED] <b>Admitted Date:</b> [REDACTED] <b>ORR Placement Date:</b> [REDACTED]	<b>Status:</b> [REDACTED] <b>AKA:</b> [REDACTED] <b>Gender:</b> [REDACTED] <b>LOS:</b> [REDACTED] <b>LOC:</b> [REDACTED] <b>Current Program:</b> [REDACTED] <b>Current Location:</b> [REDACTED]
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**Event Type:** SIR Event

**Date of Event:** [REDACTED]

**Time of Event:** 10:00 PM

**Event ID:** [REDACTED]

**Synopsis of Event:** The youth informed her foster parent that she had witnessed an elderly woman die of suffocation while riding in a crowded trailer during her journey to the United States.

## Significant Incident Report

Emergency SIR  SIR

### SIR

	Type of Abuse/Neglect: ---Select---	Alleged Perpetrator: ---Select---
<input type="checkbox"/> Abuse/Neglect in ORR Care	<input type="checkbox"/> Abuse In Home Country <input type="checkbox"/> Neglect/Abandonment in the Home Country <input type="checkbox"/> Abuse In UnitedStates <input type="checkbox"/> Abuse In DHS Custody <input type="checkbox"/> Physical Abuse In ICE Custody <input type="checkbox"/> Sexual Abuse In ICE Custody <input type="checkbox"/> Physical Abuse In CBP Custody <input type="checkbox"/> Sexual Abuse In CBP Custody <input type="checkbox"/> Other Specify:	<input checked="" type="checkbox"/> Abuse On Journey <input type="checkbox"/> Neglect/Abandonment in the United States <input type="checkbox"/> Other Specify:
<input type="checkbox"/> Behavioral Incidents that do not threaten immediate safety	<input type="checkbox"/> Possession of a Weapon <input type="checkbox"/> Suicidal Ideation <input type="checkbox"/> Verbal Aggression <input type="checkbox"/> Destruction of property <input type="checkbox"/> Past Self-Harm <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Physical Aggression <input type="checkbox"/> Use of Drugs and/or Alcohol in ORR Custody <input type="checkbox"/> Self-Harm without medical Intervention <input type="checkbox"/> Past Suicidal Attempt/Gesture
<input type="checkbox"/> Incidents Involving Law Enforcement	<input type="checkbox"/> Search <input type="checkbox"/> Interview <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Investigate/Response <input type="checkbox"/> Arrest
<input type="checkbox"/> Safety Measures	<input type="checkbox"/> One-on-One Supervision <input type="checkbox"/> Use of Restraints <input type="checkbox"/> Pat-Down or Other Searches	
<input type="checkbox"/> Criminal History	<input type="checkbox"/> Significant Criminal History in Home Country <input type="checkbox"/> Significant Criminal History in United States <input type="checkbox"/> Other Specify:	
<input type="checkbox"/> Pregnancy Related Issues	<input checked="" type="radio"/> Pregnancy <input type="radio"/> Childbirth <input type="radio"/> Termination Request <p style="text-align: center;"><b>Please describe how the pregnancy occurred and if there are any medical complications related to the pregnancy:</b></p>	
<input type="checkbox"/> Potential Fraud Schemes	<input type="checkbox"/> Confidence Scheme <input type="checkbox"/> Document/Information Fraud	
<input type="checkbox"/> Other	<input type="checkbox"/> Contact or Threats to UC while in ORR Care (from smuggling syndicates, organized crime, other criminal actors) <input type="checkbox"/> Separated from Parent/Legal Guardian <input type="checkbox"/> Previous Enrollment in the DHS Migrant Protection Protocols Programs <input type="checkbox"/> Other Specify:	

Incident Information:

<b>Did the incident take place at another care provider facility?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Care Provider Name:</b>	-- Select Provider Name --														
		<b>Care Provider City:</b>	-- Select Provider City --	<b>Care Provider State:</b>	-- Select Provider State --												
<b>Location of Incident:</b>	Other	<b>Date Reported To Care Provider:</b>	██████████	<b>Time Reported To Care Provider:</b>	05:30 PM												
<b>Other Specify:</b>	Journey to the U.S.	<b>Date Reported To ORR:</b>	██████████	<b>Time Reported To ORR:</b>	03:50 PM												
<b>Description of Incident: (Full Description of Incident)</b>	<p>During a home visit, the youth's foster parent informed the case manager that the youth had had an emotional response after being made aware of a truck and trailer crash that killed multiple migrants in Mexico on 12/09/2021. The youth's foster mother informed the case manager that the youth became aware of the news after speaking to her sponsor on the phone on ██████████. The youth's foster mother stated that the youth and another unrelated UC placed in the home both shared stories of riding in trailers during their journeys to the US similar to the one that crashed on 12/09/2021. The youth's foster mother noted that the youth stated "that could have been me" when speaking about those who lost their lives in the crash. The youth's foster mother also noted that the youth had mentioned that she witnessed an elderly woman in the trailer with her pass away from suffocation and heat. The case manager spoke with the youth privately following the report by the foster parent, The youth corroborated the information that the youth's foster mother shared with the case manager. The youth noted that she traveled in a trailer twice on her journey to the U.S. The youth states that the guide she was traveling with told her to get in a trailer with many other people and noted that she was in the trailer from 10:00 P.M. to 1:00 A.M the same night. The youth reported that during this time she did not have access to food or water. The youth noted that there was just one bottle of Suero Oral (an electrolyte drink) that was being passed between all the people in the trailer and that if an individual drank too much on their turn they would be punished. The youth reported being packed between other individuals with no space to move, sit, or raise her arms. The youth noted that she felt hot and scared, and thought that she might die. The youth also confirmed that she witnessed an elderly woman in the trailer with her pass away from suffocation and heat. The youth noted that nobody assisted the woman because they didn't want those riding in the trailer to be discovered by the police.</p>																
<b>Was the UAC or Anyone Else Injured?:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Specify:</b> The youth denied any injuries															
<b>Actions Taken</b>																	
<b>Staff Response and Intervention</b>	The case manager provided empathy and support to the youth during the disclosure. The case manager expressed that she was glad that the youth was able to exit the trailer safely. The case manager informed the youth that it was ok to feel sad and mourn for the migrants who passed away in the 12/09/2021 crash. The case manager assured the youth that she was in a safe place where no harm would come to her.																
<b>Follow-up and/or Resolution:</b>	The case manager reported the events to ORR via SIR. Additionally, the case manager informed the youth's clinician about the disclosure. Staff will continue to process the events of the 12/09/2021 crash with the youth in a therapeutic setting.																
<b>Recommendations:</b>	The youth will continue to attend individual and group therapy while in care to process trauma experienced on the journey.																
<b>Reporting:</b>																	
<b>Reported To State Licensing:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>	<b>Time of Report:</b>														
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>	<b>Case/Confirmation Number:</b>														
<b>Explain</b>	This event did not meet reporting criteria.																
<b>Results/Findings of Investigation:</b>	This event did not meet reporting criteria.																
<b>Attach Reports/Findings:</b>	_____																
<b>Is CPS Different From State Licensing:</b>	<input checked="" type="radio"/> Yes <input type="radio"/> No																
<b>Reported To CPS:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>	<b>Time of Report:</b>														
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>	<b>Case/Confirmation Number:</b>														
<b>Explain</b>	This event did not meet reporting criteria.																
<b>Results/Findings of Investigation:</b>	This event did not meet reporting criteria.																
<b>Attach Reports/Findings:</b>	_____																
<b>Reported To Local Law Enforcement:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>	<b>Time of Report:</b>														
		<b>Officer Name:</b>	<b>Officer Badge:</b>														
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>	<b>Case/Confirmation Number:</b>														
<b>Explain</b>	This event did not meet reporting criteria.																
<b>Results/Findings of Investigation:</b>	This event did not meet reporting criteria.																
<b>Attach Reports/Findings:</b>	_____																
<b>ORR Notifications:</b>																	
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Name</th> <th style="width: 25%;">Agency/Title</th> <th style="width: 15%;">Date Notified</th> <th style="width: 15%;">Time Notified</th> <th style="width: 15%;">Email</th> <th style="width: 15%;">Telephone Number</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>						Name	Agency/Title	Date Notified	Time Notified	Email	Telephone Number						
Name	Agency/Title	Date Notified	Time Notified	Email	Telephone Number												



# SAMPLE SIR 4

UAC Basic Information				
	First Name:	██████	Status:	ADMITTED
	Last Name:	██████	AKA:	████████████████
	Date of Birth:	██████	Gender:	█
	A No.:	████████	LOS:	█
	Age:	█	LOC:	█
	Child's Country of Birth:	██████	Current Program:	████████████████
	Admitted Date:	██████	Current Location:	██████
	ORR Placement Date:	██████		

Event Type: SIR Event

Date of Event: ██████

Time of Event: 11:20 AM

Event ID: ██████

Synopsis of Event: Minor ran through the floors, kicked chairs and refused to follow staff redirections.

Significant Incident Report			
<input type="radio"/> Emergency SIR <input checked="" type="radio"/> SIR			
SIR			
<input type="checkbox"/> Abuse/Neglect in ORR Care	Type of Abuse/Neglect:	---Select---	Alleged Perpetrator:
<input checked="" type="checkbox"/> Past Abuse/Neglect Not in ORR Care	<input type="checkbox"/> Abuse In Home Country <input type="checkbox"/> Neglect/Abandonment in the Home Country <input type="checkbox"/> Abuse In UnitedStates <input type="checkbox"/> Abuse In DHS Custody <input type="checkbox"/> Physical Abuse In ICE Custody <input type="checkbox"/> Sexual Abuse In ICE Custody <input type="checkbox"/> Physical Abuse In CBP Custody <input type="checkbox"/> Sexual Abuse In CBP Custody <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Abuse On Journey <input type="checkbox"/> Neglect/Abandonment in the United States <input type="checkbox"/> Other Specify:	
<input type="checkbox"/> Behavioral Incidents that do not threaten immediate safety	<input type="checkbox"/> Possession of a Weapon <input type="checkbox"/> Suicidal Ideation <input type="checkbox"/> Verbal Aggression <input type="checkbox"/> Destruction of property <input type="checkbox"/> Past Self-Harm <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Physical Aggression <input type="checkbox"/> Use of Drugs and/or Alcohol in ORR Custody <input type="checkbox"/> Self-Harm without medical Intervention <input type="checkbox"/> Past Suicidal Attempt/Gesture	
<input type="checkbox"/> Incidents Involving Law Enforcement	<input type="checkbox"/> Search <input type="checkbox"/> Interview <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Investigate/Response <input type="checkbox"/> Arrest	
<input type="checkbox"/> Safety Measures	<input type="checkbox"/> One-on-One Supervision <input type="checkbox"/> Use of Restraints <input type="checkbox"/> Pat-Down or Other Searches		
<input type="checkbox"/> Criminal History	<input type="checkbox"/> Significant Criminal History in Home Country <input type="checkbox"/> Significant Criminal History in United States <input type="checkbox"/> Other Specify:		
<input type="checkbox"/> Pregnancy Related Issues	<input type="radio"/> Pregnancy <input type="radio"/> Childbirth <input type="radio"/> Termination Request Please describe how the pregnancy occurred and if there are any medical complications related to the pregnancy:		
<input type="checkbox"/> Potential Fraud Schemes	<input type="checkbox"/> Confidence Scheme <input type="checkbox"/> Document/Information Fraud		
<input checked="" type="checkbox"/> Other	<input type="checkbox"/> Contact or Threats to UC while in ORR Care (from smuggling syndicates, organized crime, other criminal actors) <input type="checkbox"/> Separated from Parent/Legal Guardian <input type="checkbox"/> Previous Enrollment in the DHS Migrant Protection Protocols Programs <input checked="" type="checkbox"/> Other Specify: Minor ran through the floors, kicked chairs and did not follow the redirections from staff.		
Incident Information:			

**Did the incident take place at another care provider facility?**  Yes  No
 **Care Provider Name:** -- Select Provider Name --  
**Care Provider City:** -- Select Provider City -- **Care Provider State:** -- Select Provider State --

**Location of Incident:** Housing Area **Date Reported To Care Provider:** 11/17/2021 **Time Reported To Care Provider:** 11:20 AM  
**Other Specify:** Facility **Date Reported To ORR:** 11/17/2021 **Time Reported To ORR:** 11:20 AM

**Description of Incident: (Full Description of Incident)** At approximately 11:20AM, Program Manager [REDACTED] was monitoring the minor. Minor ran down the first floor hall into an office. Right after, minor ran downstairs to the dining hall. Minor began to run around the dining hall, kicking chairs, and then proceeded to jump on the dining tables. Despite multiple efforts to redirect, minor continued to try to run away from [REDACTED]. An interpreter was present with [REDACTED] following the minor. At approximately, 11:35AM, [REDACTED] was able to block minor in one of the stairwells. Minor then ran to the first floor lounge area and finally calmed down.

**Was the UAC or Anyone Else Injured?:**  Yes  No **Specify:**

**Actions Taken**

**Staff Response and Intervention** [REDACTED] continued to redirect minor. [REDACTED] used an onsite translator to deescalate the minor. [REDACTED] was able to discuss minor's behavior with him. Minor calmed down and had lunch with PM DE afterwards.

**Follow-up and/or Resolution:** An SIR is being submitted to notify ORR: Project Officer, Federal Field Specialist, Case Coordinator, and Contract Field Specialist.

**Recommendations:** Program will continue to provide support. Minor will continue to be on a safety plan with direct staff support. Minor's assigned clinician will follow up with the minor.

**Reporting:**

**Reported To State Licensing:**  Yes  No **Date of Report:** **Time of Report:**  
**Was the Incident Investigated?**  Yes  No **Date Notified the Incident will be investigated:** **Case/Confirmation Number:**  
 Explain \_\_\_\_\_  
 Results/Findings of Investigation: \_\_\_\_\_  
 Attach Reports/Findings: \_\_\_\_\_

**Is CPS Different From State Licensing:**  Yes  No

**Reported To CPS:**  Yes  No **Date of Report:** **Time of Report:**  
**Was the Incident Investigated?**  Yes  No **Date Notified the Incident will be investigated:** **Case/Confirmation Number:**  
 Explain \_\_\_\_\_  
 Results/Findings of Investigation: \_\_\_\_\_  
 Attach Reports/Findings: \_\_\_\_\_

**Reported To Local Law Enforcement:**  Yes  No **Date of Report:** **Time of Report:**  
**Officer Name:** **Officer Badge:**  
**Was the Incident Investigated?**  Yes  No **Date Notified the Incident will be investigated:** **Case/Confirmation Number:**  
 Explain \_\_\_\_\_  
 Results/Findings of Investigation: \_\_\_\_\_  
 Attach Reports/Findings: \_\_\_\_\_

**ORR Notifications:**

Name	Agency/Title	Date Notified	Time Notified	Email	Telephone Number
[REDACTED]	ORR/FFS	[REDACTED]	11:30 PM	[REDACTED]	[REDACTED]
[REDACTED]	ORR/PO	[REDACTED]	11:30 PM	[REDACTED]	[REDACTED]
	Medical Coordinator				
[REDACTED]	Case Coordinator	[REDACTED]	11:30 PM	[REDACTED]	[REDACTED]
[REDACTED]	CFS	[REDACTED]	11:30 PM	[REDACTED]	[REDACTED]
	SIR Hotline				

**Other Notifications:**

**Is this an SIR for a Runaway?**  Yes  No



Title	Name	Date Notified	Time Notified	Method of Notification	Specify
ICE Juvenile Coordinator				Phone	

**Reporter and Follow-Up Contact:**

Type	Name	Title	Email	Telephone Number
Staff Filing Report		Program Manager		
Contact for Follow-Up		Program Director		

# SAMPLE SIR 5

## UAC Basic Information

	First Name: [REDACTED]	Status: [REDACTED]
	Last Name: [REDACTED]	AKA: [REDACTED]
	Date of Birth: [REDACTED]	Gender: [REDACTED]
	A No.: [REDACTED]	LOS: [REDACTED]
	Age: [REDACTED]	LOC: [REDACTED]
	Child's Country of Birth: [REDACTED]	Current Program: [REDACTED]
	Admitted Date: [REDACTED]	Current Location: [REDACTED]
	ORR Placement Date: [REDACTED]	

Event Type: SIR Event

Date of Event: [REDACTED]      Time of Event: 06:30 PM      Event ID: [REDACTED]

Synopsis of Event: UC youth became physically aggressive.

## Significant Incident Report

Emergency SIR <input checked="" type="radio"/> SIR		
SIR		
<input type="checkbox"/> Abuse/Neglect in ORR Care	---Select---	Alleged Perpetrator: ---Select---
<input type="checkbox"/> Past Abuse/Neglect Not in ORR Care	<input type="checkbox"/> Abuse In Home Country <input type="checkbox"/> Neglect/Abandonment in the Home Country <input type="checkbox"/> Abuse In UnitedStates <input type="checkbox"/> Abuse In DHS Custody <input type="checkbox"/> Physical Abuse In ICE Custody <input type="checkbox"/> Sexual Abuse In ICE Custody <input type="checkbox"/> Physical Abuse In CBP Custody <input type="checkbox"/> Sexual Abuse In CBP Custody <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Abuse On Journey <input type="checkbox"/> Neglect/Abandonment in the United States <input type="checkbox"/> Other Specify:
<input checked="" type="checkbox"/> Major Behavioral Incidents that threaten safety	<input type="checkbox"/> Possession/Use of a Weapon <input type="checkbox"/> Suicidal Ideation <input type="checkbox"/> Verbal Aggression <input type="checkbox"/> Other Specify:	<input checked="" type="checkbox"/> Physical Aggression/Harm to Others <input type="checkbox"/> Use of Drugs and/or Alcohol in ORR Custody <input type="checkbox"/> Self-injurious Behaviors/Self Mutilation <input type="checkbox"/> Suicide Attempt/Gesture
<input type="checkbox"/> Runaway	<input type="checkbox"/> Runaway <input type="checkbox"/> Attempted Runaway	
<input type="checkbox"/> Incidents Involving Law Enforcement	<input type="checkbox"/> Search <input type="checkbox"/> Interview <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Investigate/Response <input type="checkbox"/> Arrest
<input type="checkbox"/> Safety Measures	<input type="checkbox"/> One-on-One Supervision <input type="checkbox"/> Use of Restraints <input type="checkbox"/> Pat-Down or Other Searches	
<input type="checkbox"/> Criminal History	<input type="checkbox"/> Significant Criminal History in Home Country <input type="checkbox"/> Significant Criminal History in United States <input type="checkbox"/> Other Specify:	
<input type="checkbox"/> Pregnancy Related Issues	<input checked="" type="radio"/> Pregnancy <input checked="" type="radio"/> Childbirth <input checked="" type="radio"/> Termination Request Please describe how the pregnancy occurred and if there are any medical complications related to the pregnancy:	
<input type="checkbox"/> Other	<input type="checkbox"/> Contact or Threats to UC while in ORR Care (from smuggling syndicates, organized crime, other criminal actors) <input type="checkbox"/> Other Specify:	
Incident Information:		
Did the incident take place at another care provider facility?	<input type="radio"/> Yes <input checked="" type="radio"/> No	Care Provider Name: -- Select Provider Name -- Care Provider City: -- Select Provider City --    Care Provider State: -- Select Provider State --
Location of Incident:	Other	Date Reported To Care Provider: [REDACTED]
Other Specify:	Licensed Foster Home	Time Reported To Care Provider: 06:30 PM
		Date Reported To ORR: [REDACTED]
		Time Reported To ORR: 09:15 AM

**Description of Incident: (Full Description of Incident)** UC youth began to argue with his brother about a toy car and it escalated where it got to the point that they needed to be isolated and youth went to his room. Youth screamed for approximately 20 minutes. While the youth was screaming, foster father was blocking the doorway so that the youth wouldn't leave his room to cause injury to others, youth did become physically aggressive to the foster father by kicking and scratching him on the arm. Youth calmed down and then ran out of the bedroom and went outside for approximately 10 minutes. Youth calmed down after 10 minutes. Foster parents told the youth that he was to sleep early due to his actions by being physically aggressive and arguing with his brother.

**Was the UAC or Anyone Else Injured?:**  Yes  No **Specify:**

**Actions Taken**

**Staff Response and Intervention** Foster parents isolated the UC during the behavioral episode to protect others and the home environment.

**Follow-up and/or Resolution:** UC de-escalated after 20 minutes. It was reported that the UC had not had other episode after the first one today. Foster parent called oncall staff to report the incident. On call called on call caseworker notified therapist, supervisor, behavioral specialist, attorney, immigration attorney, licensing specialist, on-call worker, and pre-adoptive foster family.

**Recommendations:** It is recommended that the UC remain in the current placement and continue weekly therapy and medication intervention.

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**Reporting:**

**Reported To State Licensing:**  Yes  No **Date of Report:** **Time of Report:**

**Was the Incident Investigated?**  Yes  No **Date Notified the Incident will be investigated:** **Case/Confirmation Number:**

**Explain** A report to licensing is not required.

**Results/Findings of Investigation:**

**Attach Reports/Findings:**

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**Is CPS Different From State Licensing:**  Yes  No

**Reported To CPS:**  Yes  No **Date of Report:** **Time of Report:**

**Was the Incident Investigated?**  Yes  No **Date Notified the Incident will be investigated:** **Case/Confirmation Number:**

**Explain** A report to CPS is not required.

**Results/Findings of Investigation:**

**Attach Reports/Findings:**

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**Reported To Local Law Enforcement:**  Yes  No **Date of Report:** **Time of Report:**

**Officer Name:** **Officer Badge:**

**Was the Incident Investigated?**  Yes  No **Date Notified the Incident will be investigated:** **Case/Confirmation Number:**

**Explain** A report to Local Law Enforcement is not required.

**Results/Findings of Investigation:**

**Attach Reports/Findings:**

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**ORR Notifications:**

Name	Agency/Title	Date Notified	Time Notified	Email	Telephone Number
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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**Other Notifications:**

**Is this an SIR for a Runaway?**  Yes  No

Title	Name	Date Notified	Time Notified	Method of Notification	Specify
ICE Juvenile Coordinator				Phone	

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**Reporter and Follow-Up Contact:**

Type	Name	Title	Email	Telephone Number
Staff Filing Report	[REDACTED]	Case Manager	[REDACTED]	[REDACTED]

Contact for Follow-Up	[REDACTED]	Case Manager	[REDACTED]
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# SAMPLE SIR 6

UAC Basic Information				
	First Name:	[REDACTED]	Status:	[REDACTED]
	Last Name:	[REDACTED]	AKA:	
	Date of Birth:	[REDACTED]	Gender:	[REDACTED]
	A No.:	[REDACTED]	LOS:	[REDACTED]
	Age:	[REDACTED]	LOC:	[REDACTED]
	Child's Country of Birth:	[REDACTED]	Current Program:	[REDACTED]
	Admitted Date:	[REDACTED]	Current Location:	[REDACTED]
	ORR Placement Date:	[REDACTED]		

Event Type: SIR Event

Date of Event: 3/18/2022

Time of Event: 02:00 PM

Event ID: [REDACTED]

Synopsis of Event: Unaccompanied Child has presented a pattern of disruptive behavior and non-compliance to treatment and interventions; case elevation was submitted for transfer

Significant Incident Report			
<input type="radio"/> Emergency SIR <input checked="" type="radio"/> SIR			
SIR			
<input type="checkbox"/> Abuse/Neglect in ORR Care	Type of Abuse/Neglect:	---Select---	Alleged Perpetrator: ---Select---
<input type="checkbox"/> Past Abuse/Neglect Not in ORR Care	<input type="checkbox"/> Abuse In Home Country <input type="checkbox"/> Neglect/Abandonment in the Home Country <input type="checkbox"/> Abuse In UnitedStates <input type="checkbox"/> Abuse In DHS Custody <input type="checkbox"/> Physical Abuse In ICE Custody <input type="checkbox"/> Sexual Abuse In ICE Custody <input type="checkbox"/> Physical Abuse In CBP Custody <input type="checkbox"/> Sexual Abuse In CBP Custody <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Abuse On Journey <input type="checkbox"/> Neglect/Abandonment in the United States <input type="checkbox"/> Other Specify:	
<input type="checkbox"/> Behavioral Incidents that do not threaten immediate safety	<input type="checkbox"/> Possession of a Weapon <input type="checkbox"/> Suicidal Ideation <input type="checkbox"/> Verbal Aggression <input type="checkbox"/> Destruction of property <input type="checkbox"/> Past Self-Harm <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Physical Aggression <input type="checkbox"/> Use of Drugs and/or Alcohol in ORR Custody <input type="checkbox"/> Self-Harm without medical Intervention <input type="checkbox"/> Past Suicidal Attempt/Gesture	
<input type="checkbox"/> Incidents Involving Law Enforcement	<input type="checkbox"/> Search <input type="checkbox"/> Interview <input type="checkbox"/> Other Specify:	<input type="checkbox"/> Investigate/Response <input type="checkbox"/> Arrest	
<input type="checkbox"/> Safety Measures	<input type="checkbox"/> One-on-One Supervision <input type="checkbox"/> Use of Restraints <input type="checkbox"/> Pat-Down or Other Searches		
<input type="checkbox"/> Criminal History	<input type="checkbox"/> Significant Criminal History in Home Country <input type="checkbox"/> Significant Criminal History in United States <input type="checkbox"/> Other Specify:		
<input type="checkbox"/> Pregnancy Related Issues	<input checked="" type="radio"/> Pregnancy <input type="radio"/> Childbirth <input type="radio"/> Termination Request Please describe how the pregnancy occurred and if there are any medical complications related to the pregnancy:		
<input type="checkbox"/> Potential Fraud Schemes	<input type="checkbox"/> Confidence Scheme <input type="checkbox"/> Document/Information Fraud		
<input checked="" type="checkbox"/> Other	<input type="checkbox"/> Contact or Threats to UC while in ORR Care (from smuggling syndicates, organized crime, other criminal actors) <input type="checkbox"/> Separated from Parent/Legal Guardian <input type="checkbox"/> Previous Enrollment in the DHS Migrant Protection Protocols Programs <input checked="" type="checkbox"/> Other Unaccompanied Child has presented a pattern of disruptive behavior and non-compliance to treatment and interventions; case elevation was submitted for transfer Specify:		
Incident Information:			



<b>Did the incident take place at another care provider facility?</b> <input type="radio"/> Yes <input checked="" type="radio"/> No		<b>Care Provider Name:</b> -- Select Provider Name --
		<b>Care Provider City:</b> -- Select Provider City -- <b>Care Provider State:</b> -- Select Provider State --
<b>Location of Incident:</b> Housing Area	<b>Date Reported To Care Provider:</b> 3/18/2022	<b>Time Reported To Care Provider:</b> 02:00 PM
<b>Other Specify:</b> Cottage	<b>Date Reported To ORR:</b> 3/18/2022	<b>Time Reported To ORR:</b> 06:20 PM
<b>Description of Incident: (Full Description of Incident)</b>	3/18/2022 [REDACTED]: Unaccompanied Child (UC) [REDACTED], has demonstrated disruptive behavior and non-compliance with the long-term foster care program's requirements and expectations. The following is a brief description of the escalating pattern of behavior [REDACTED] - Asking inappropriate questions to his peer, [REDACTED] Inappropriate use of technology, [REDACTED] UC being disruptive at 3 am being on his phone, [REDACTED] Incident Report for defiant behavior towards staff, holding accountability for an action to cover one of his peers, 2/20/2022- Incident Report for physical Aggression (SIR Event# [REDACTED]), [REDACTED] - Incident Report for being shirtless, was redirected 3 times, did not comply. The program has allowed ample time for UC to demonstrate improvements in his behavior, provided behavior management services, and utilization of deescalating services. UC has demonstrated defiance and non-compliance to engage during his individual clinical sessions starting January 26 2022, or refusing to attend with the statement "you can't make me". UC was compliant with group when he attended, but would request to leave before group would end. Please note that a Multi-Disciplinary Team meeting was conducted on [REDACTED], in order to offer the UC a safe space to express his needs and concerns. UC was not receptive. Details may be found on clinical risk reduction note of document section on Portal describing Multidisciplinary team meeting. An in-house safety plan was offered to UC on [REDACTED]. UC denied receiving or acknowledging information. Given UC's escalation of non-compliance, the program sought support from family in the home country. A Family session was conducted on [REDACTED] (details may be found uploaded on to document section of the portal), UC expressed feeling angry about his family being contacted. Although, UC committed to behaving on the phone with his mother present, UC continues on a trend of erratic behavior causing a disruption to daily programming due to non-compliance.	
<b>Was the UAC or Anyone Else Injured?:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No <b>Specify:</b>	
<b>Actions Taken</b>		
<b>Staff Response and Intervention</b>	[REDACTED] 3/18/2022-Clinician [REDACTED] has attempted to utilize several interventions for individual clinical sessions such as Unconditional Positive regard, Empathetic Understanding, attempting to set clear boundaries, Various attempts of building Rapport. During crisis, interventions such as Acceptance of Negative emotions, Active listening, Paraphrase and affirmations -details may be found in case review, non-have been successful. UC's treatment plan goals included adjustment, Improvement of self-confidence, develop trusting relationship with clinician, communication skills, thought processing, Nature of peer's relationships. None of the goals were met.	
<b>Follow-up and/or Resolution:</b>	[REDACTED] 3/18/2022- Case was elevated and has been submitted for the transfer request to shelter care due to non-compliance.	
<b>Recommendations:</b>	[REDACTED] 3/18/2022 Program is recommending a step up to shelter.	
<b>Reporting:</b>		
<b>Reported To State Licensing:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>
<b>Case/Confirmation Number:</b>		
<b>Explain Results/Findings of Investigation:</b>		
<b>Attach Reports/Findings:</b>		
<b>Is CPS Different From State Licensing:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	
<b>Reported To CPS:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>
<b>Case/Confirmation Number:</b>		
<b>Explain Results/Findings of Investigation:</b>		
<b>Attach Reports/Findings:</b>		
<b>Reported To Local Law Enforcement:</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date of Report:</b>
<b>Was the Incident Investigated?</b>	<input type="radio"/> Yes <input checked="" type="radio"/> No	<b>Date Notified the Incident will be investigated:</b>
<b>Case/Confirmation Number:</b>		
<b>Explain Results/Findings of Investigation:</b>		
<b>Attach Reports/Findings:</b>		
<b>ORR Notifications:</b>		

# ACKNOWLEDGEMENTS

The Young Center and NIJC thank the following individuals for their contributions and review of this report: Noorjahan Akbar, Heidi Altman, Jade M. Brown, Myra Farooqi, Abena Hutchful, Anabel Mendoza, Alex McAnarney, Jennifer Nagda, Mirna Rodriguez, Anna Selles, Marie Silver, Tara Tidwell Cullen, and Nour Vakhshoury, Elizabeth Witmer, and Maria Woltjen.

## ABOUT THE YOUNG CENTER

The Young Center for Immigrant Children’s Rights is a human rights organization that advocates for the rights and best interests of immigrant children. Young Center attorneys, social workers, and bilingual and bicultural volunteers are appointed as Child Advocate to ensure that unaccompanied and separated children facing the United States immigration system are not alone, their stories are heard, and their best interests, safety, and wellbeing are protected. Our goal is to change the immigration system so that children in immigration proceedings are recognized as children and their best interests are considered in every decision impacting them. Visit [theyoungcenter.org](http://theyoungcenter.org) to learn more.

## ABOUT THE NATIONAL IMMIGRANT JUSTICE CENTER

The National Immigrant Justice Center (“NIJC”) provides legal services and advocacy for unaccompanied children. Headquartered in Chicago, NIJC also offers a wide range of legal services to low-income immigrants, refugees, and asylum seekers on matters that include family-based immigration, applications for Lawful Permanent Residence, legal protections for immigrant victims of family violence, visas for immigrant victims of crimes, visas for immigrant victims of human trafficking, and more. Since its founding more than three decades ago, NIJC blends individual client advocacy with broad-based systemic change. Visit [immigrantjustice.org](http://immigrantjustice.org) to learn more.

Please contact co-authors Jane Liu ([jliu@theyoungcenter.org](mailto:jliu@theyoungcenter.org)) and Azadeh Erfani ([aerfani@heartlandalliance.org](mailto:aerfani@heartlandalliance.org)) for any questions related to this report.

# SOURCES

1 Excerpt from *El Futuro/The Future*, poem by unaccompanied child held in secure custody in Virginia. See Seth Michelson, *Dreaming America: Voices of Undocumented Youth in Maximum-Security Detention* (Settlement House, 2017), 90-91. All translations for these poems are from this book.

2 Acting Inspector General Joanne M. Chiedi, HHS Off. of the Inspector General, *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, Sept. 2019, 12, <https://oig.hhs.gov/oei/reports/oei-09-18-00431.pdf>.

3 U.N. High Comm'r for Refugees, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the need for International Protection*, Washington, DC: UNHCR, 2014, <https://www.refworld.org/docid/532180c24.html>. See also Emily M. Cohodes et al., "Migration-related trauma and mental health among migrant children emigrating from Mexico and Central America to the United States: Effects on developmental neurobiology and implications for policy," *Developmental Psychobiology* 63, no. 6 (Sept. 2021): 1–29, <https://doi.org/10.1002/dev.22158>.

4 S.A. MacLean et al., "Characterization of the mental health of immigrant children separated from their mothers at the U.S.–Mexico border," *Psychiatry Research*, April 2020, <https://pubmed.ncbi.nlm.nih.gov/31522891/>.

5 Julie M. Linton et al., "Detention of Immigrant Children," *American Academy of Pediatrics* 139, no. 5 (2017): 7, [http://publications.aap.org/pediatrics/article-pdf/139/5/e20170483/1062683/peds\\_20170483.pdf](http://publications.aap.org/pediatrics/article-pdf/139/5/e20170483/1062683/peds_20170483.pdf). See also Robert Moore, "Internal Investigation Confirms Border Patrol Failures Leading Up to a 16-Year-Old's Death on the Floor of His Cell," *ProPublica*. Feb. 8, 2022. <https://www.propublica.org/article/internal-investigation-confirms-border-patrol-failures-leading-up-to-a-16-year-olds-death-on-the-floor-of-his-cell>.

6 ORR Juvenile Coordinator Report 11-12, *Flores v. Garland*, No. 85-cv-04544-DMG-AGR, ECF No. 1259-3 (C.D. Cal. Jul. 1, 2022) [hereinafter "July 1, 2022, ORR Juvenile Coordinator Report"]; Casey Family Programs. "How can we ensure a child's first placement is with a family?," Updated August 2018, [https://caseyfamilypro-wpengine.netdna-ssl.com/media/SF\\_First-placement-family-placement-1.pdf](https://caseyfamilypro-wpengine.netdna-ssl.com/media/SF_First-placement-family-placement-1.pdf).

7 Chiedi, *Care Provider Facilities Described Challenges*, 12.

8 Exhibit C: Declaration of Ryan Matlow: Psychological Evaluation of Children and Conditions at Fort Bliss Emergency Intake Site 2, *Flores v. Garland*, No. 85-cv-04544-DMG-AGR, ECF No. 1161-7 (C.D. Cal. Aug. 9, 2021) (describing "clinically significant psychological harm" suffered by children in prolonged detention in Fort Bliss).

9 Marinus Van IJzendoorn et al., "Children in Institutional Care: Delayed Development and Resilience," *Monographs of the Society for Research in Child Development*, 76 (2011): 14-16.

10 *Ibid.*, 16.

11 Redacted Exhibit 74 ¶ 6, *Lucas R. v. Azar*, No. 2:18-cv-05741-DMG-PLA, ECF No. 266-32, 2-3 (C.D. Cal. 2020).

12 Suzan Song, "Mental health of unaccompanied children: effects of U.S. immigration policies," *BJPsych Open*, 7 (2021): 3, <http://dx.doi.org/10.1192/bjo.2021.1016>.

13 "Heather Forkey et al., American Academy of Pediatrics Council on Foster Care, Adoption and Kinship Care, "Trauma-Informed Care," *Pediatrics* 148, no. 2 (2021): 9, <https://publications.aap.org/pediatrics/article/148/2/e2021052579/179781/Trauma-Informed-Care-in-Child-Health-Systems>.

14 M Paris et al., Immigration Psychology Working Group, *Vulnerable but not broken: Psychosocial challenges and resilience pathways among unaccompanied children from Central America*, 2018, 58.

15 Forkey, "Trauma-Informed Care," 7.

16 Brief of Amici Curiae Current and Former State Attorneys General, Elected Prosecutors, Corrections Leaders, Criminal Justice Leaders, and Disability Rights Leaders in Support of Plaintiffs-Appellants 10-11, *Doe 4 v. Shenandoah Valley Juvenile Ctr. Comm'n*, No. 19-1910, ECF 27-1 (4th Cir. 2020) ("[I]n agencies using trauma-informed practices, staff who interact with youth are trained to recognize and respond to manifestations of trauma such as acting out behaviors. Rather than simply punishing a young person who acts out, staff coordinate with mental health professionals to determine whether the behavior demonstrates a need for additional mental health care, and to avoid "punishment" that will further damage the child's mental health. A program, organization, or system that is trauma-informed recognizes the signs and symptoms of trauma and understands potential paths for recovery, while seeking to avoid re-traumatization" (citations omitted)).

17 Homeland Security Act of 2002, 6 U.S.C. § 279.

18 William Wilberforce Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232(c)(2)(A). See also Flores Settlement Agreement.

19 Besides the SIRs discussed and analyzed in our report, ORR has another set of SIR forms called Sexual Abuse Significant Incident Reports for facilities to report incidents related to sexual abuse, sexual assault, sexual harassment, and inappropriate contact that merit their own discussion and analysis. ORR dedicates section 4 of its policy guide to these particular SIRs. Though some of our findings are pertinent to those SIRs as well, those SIRs are largely beyond the scope of this report.

20 All poems and quotations are direct testimonies of children in ORR custody who received SIRs. These children frequently were in restrictive settings. Here, the child refers to ORR facility staff as "guards" because the child is placed in a secure facility, ORR's most restrictive placement.

21 Declaration of D.M 9, *Flores v. Sessions*, No. 5:17-cv-00097-EKD-JCH, ECF 409-5 (C.D. Cal. 2018).

22 Off. of Refugee Resettlement, ORR Unaccompanied Children Program Policy Guide [hereinafter ORR Policy Guide], § 5.8.2., revised July 12, 2021, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide>.

23 According to HHS' Office of Inspector General, during a seven-month period in 2018, forty-five ORR facilities serving 72 percent of the children in ORR custody at the time submitted 21,858 SIRs. HHS Off. of the Inspector General, *The Office of Refugee Resettlement's Incident Reporting System Is Not Effectively Capturing Data To Assist Its Efforts To Ensure the Safety of Minors in HHS Custody*, June 8, 2020, <https://oig.hhs.gov/oei/reports/oei-09-18-00430.pdf>.

24 ORR, "Attachment A - Summary of Public Comments and ORR Responses, Administration and Oversight of the Unaccompanied Alien Children Program," OMB Information Collection Request 0970 - 0547, October 2020, No. 4, <https://omb.report/icr/202105-0970-013/doc/111780500>.

25 See Appendix C.

26 ORR, "Facts and Data," Dec. 20, 2021, <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.

27 ORR, "Supporting Statement Part A - Justification. Administration and Oversight of the Unaccompanied Alien Children Program. OMB Information Collection Request 0970" - NEW," April 2020, <https://omb.report/icr/202004-0970-002/doc/100242902>.

28 ORR Policy Guide § 5.8, last revised June 7, 2021.

29 ORR Policy Guide § 5.8.2, last revised July 12, 2021.

30 ORR Policy Guide § 5.8.2, last revised July 12, 2021.

31 ORR has stated that "[a]ll new information, including missing or contextualizing information and actions taken since the initial SIR was filed, is documented in SIR Addendums." See ORR, "Attachment A - Summary of Public Comments and ORR Responses," 3.

32 Staff must submit the Addendum to ORR within 24 hours of learning of the need for the correction or new information. ORR Policy Guide § 5.8.4, revised June 7, 2021.

33 Redacted Versions of Documents Filed Under Seal ¶ 4, *Flores v. Sessions*, No. 2:85-cv-04544-DMG-AGR, ECF No. 420-3 (C.D. Cal. April 23, 2018).

34 For children who are appointed Child Advocates, ORR is required to provide the Child Advocate with a copy of the child's SIRs when the Child Advocate requests them.

35 Excerpt from *El Futuro/The Future*, poem by unaccompanied child held in secure custody in Virginia. See Seth Michelson, (Settlement House, 2017), 84-85

36 ORR Policy Guide § 5.8, revised June 7, 2021.

37 These placements do not include emergency intake sites and influx care facilities, which are not licensed and are used by ORR when its licensed capacity reaches a certain threshold. In terms of level of restriction, these placements are similar to shelters. The harmful conditions at these large-scale facilities which have housed thousands of children at a time have been well-documented. See, e.g., Exhibit C: Declaration of Ryan Matlow: Psychological Evaluation of Children and Conditions at Fort Bliss Emergency Intake Site,

Flores, *supra* n. 8; Graham Kates and Erin Donaghue, "I have spent a lot of time crying': Migrant children describe life at Homestead shelter," *CBS News*, May 31, 2019, <https://www.cbsnews.com/news/migrant-children-describe-life-at-homestead-shelter-in-court-filing/>.

38 Chiedi, *Care Provider Facilities Described Challenges*, 12. See also Xavier Becerra et al., *The California Department of Justice's Review of Immigration Detention in California*, (Feb. 2019), 38, <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf>.

39 Becerra, *Immigration Detention in California*, 59; First Am. Complaint for Injunctive Relief, Declaratory Relief, and Nominal Damages ¶ 4, *Lucas R.*, ECF No. 81 (C.D. Cal. Sept. 1, 2018).

40 See, e.g., *Lucas R. v. Becerra*, 2022 WL 2177454, at \*19 (C.D. Cal. Mar. 11, 2022) (finding that ORR "acknowledges that it has erroneously stepped up some minors to restrictive placements, and has failed to expeditiously step-down others after determining their eligibility to be placed in less restrictive facilities"); Disability Rights California, *The Detention of Immigrant Children with Disabilities in California: A Snapshot*, Jun. 26, 2019, 7, 25-26, <https://www.disabilityrightscs.org/system/files/file-attachments/DRC-ORR-Report.pdf>.

41 Exhibit 7 (Report of Dr. Gregory Lewis) ¶ 82, Plaintiffs' Motion for Preliminary Injunction, *Doe 4 v. Shenandoah Valley Juvenile Comm'n*, No. 5:17-cv-00097, ECF No. 34-7 (W.D. Va. Feb. 28, 2018).

42 *Doe 4 v. Shenandoah Valley Juvenile Ctr. Comm'n*, 985 F.3d 327, 331 (4th Cir. 2021) ("Staff are authorized to apply 'physical restraint techniques' to physically grab the child in a hold akin to a 'full nelson.' Staff may also bind a child in handcuffs or shackles; at times, staff will place restraints onto misbehaving children, strapping them onto an 'emergency restraint chair,' where they are trapped until they 'tire themselves out'. (citations omitted)

43 See, e.g., Susan Terrio, *Whose Child am I?: Unaccompanied, Undocumented Children in US Immigration Custody*, (Oakland: University of California Press, 2015), 126 ("Most [ORR] staff insisted that there was no direct correlation between the number of SIRs and a step-up. Nonetheless, when they described specific cases the typical rationale for the transfer included the number and type of SIRs").

44 See Disability Rights California, *The Detention of Immigrant Children with Disabilities; Doe 4*, 985 F.3d at 331; First Am. Complaint, *Lucas R.*, *supra* n. 39.

45 Flores Settlement Agreement, ¶ 24A. See also *Lucas R.*, *supra* n. 40, at \*22 (expanding Placement Review Panel pilot, which affords a process for challenging a secure placement after children's transfer, to all children in restrictive placements); *Lucas R. v. Becerra*, 2022 WL 3908829, at \*5-9 (C.D. Cal. Aug. 30, 2022) (preliminary injunction requiring ORR to inform children of their right to contest restrictive placement after their step-up through the Placement Review Panel).

46 ORR Policy states that if the care provider and ORR/FFS determine that a new level of care is appropriate, the legal service provider and attorney should be notified within a reasonable amount of time. The section goes on to state, "[t]he care provider documents the basis for stepping up or stepping down a UAC into or from a secure or staff secure care provider in the UAC's case file and provides the information to the youth's attorney of record, legal service provider, or Child Advocate, on demand." ORR Policy Guide § 1.4.2, last revised Apr. 22, 2016. See also ORR Policy Guide § 1.4,

last revised Oct. 10, 2018 (“Care providers also take into consideration information from the referring Federal entity, child assessment tools, interviews, location of the child’s sponsor or family in the U.S., records from local, State, and Federal agencies, and information from stakeholders, including the child’s legal service provider, attorney of record or Child Advocate, as applicable, when making transfer recommendations”).

47 Redacted Ex. 79 ¶ 3, *Lucas R.*, ECF No. 266-37 (C.D. Cal. Oct. 2, 2020).

48 Terrio, *Whose Child Am I?*, 125 (“[C]ase managers, clinicians, and DFCs agreed that it was easier to get ORR authorization for more restrictions than for less”).

49 Statement of Uncontroverted Facts and Conclusions of Law in Supp. Pls.’ Mot. Partial Summ. J. ¶ 152, *Lucas R.*, ECF No.269-2 (C.D. Cal. October 2, 2020).

50 Becerra, *Review of Immigration Detention in California*, 42.

51 *Ibid.*, 51.

52 Redacted Ex. 63 ¶ 5, *Lucas R.*, ECF No. 266-21 (C.D. Cal. Oct. 2, 2020).

53 Redacted Ex. 71 ¶ 9, *Lucas R.*, ECF No. 266-29 (C.D. Cal. Oct. 2, 2020).

54 These denials also occur for children in secure custody seeking step-down to staff secure or residential treatment facilities.

55 Redacted Ex. 74 ¶ 14, *Lucas R.*, ECF No. 266-32 (C.D. Cal. Oct. 2, 2020).

56 Although unaccompanied children are supposed to be held in CBP custody for a brief period of time before transfer to ORR custody, CBP may influence the level of custody children are placed within ORR. As explained in Appendix A, most children are placed in ORR shelters; however, ORR may decide to place a child in a more restrictive placement if CBP recommends a more restrictive placement based on a child’s history.

57 TVPRA, 8 U.S.C. § 1232(c)(2)(B). See also *Garcia Ramirez v. ICE*, 471 F. Supp. 3d 88, 92 (D.D.C. 2020).

58 See Ex. A, p. 20, *Garcia Ramirez v. ICE*, No. 1:18-cv-00508-RC, ECF No. 345-1 (D.D.C. Nov. 19, 2020), [https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2021-02/Remedies-ICE\\_PowerPoint\\_on\\_Age-Outs.pdf](https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2021-02/Remedies-ICE_PowerPoint_on_Age-Outs.pdf) (ICE training on age-out assessments stating that “information relating to an Age-Out’s danger to self, danger to community, and flight risk is commonly found in [ . . . ] ORR’s Post-18 Plan and Significant Incident Reports”). ICE also uses an Age-Out Review Worksheet” that requires ICE to review materials available, which “may include but are not limited to, ORR Post-18 Plan, SIRs [ . . . ]” Ex. C, p. 3, *Garcia Ramirez*, ECF No. 345-3, (D.D.C. Nov. 19, 2020), [https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2021-02/Remedies-ICE\\_proposed\\_Age-Out\\_Review\\_Worksheet.pdf](https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2021-02/Remedies-ICE_proposed_Age-Out_Review_Worksheet.pdf).

59 See Defs’ Notice of Compliance 2, *Garcia Ramirez*, ECF No. 380 (D.D.C. Nov. 19, 2021) (stating that in September 2021, ICE released 138 of 139 youth aging out of ORR custody). See also Exhibit A: Settlement Agreement, *Garcia Ramirez*, ECF No. 402-1 (D.D.C. Sept. 1, 2022), [https://immigrantjustice.org/court\\_cases/garcia-ramirez-et-al-v-ice-et-al](https://immigrantjustice.org/court_cases/garcia-ramirez-et-al-v-ice-et-al).

60 See, e.g., U.S. House of Reps., Comm. on Homeland Security, ICE Detention Facilities: Failing to Meet Basic Standards of Care, Sept. 21, 2020, 13-17, <https://homeland.house.gov/imo/media/doc/Homeland%20ICE%20facility%20staff%20report.pdf>; Camilo Montoya-Galvez, “ICE discontinues or limits use of four detention facilities, citing inadequate conditions,” *CBS News*, Mar. 25, 2022, <https://www.cbsnews.com/news/ice-detention-facilities-conditions/>.

61 See, e.g., Renuka Rayasam, “Migrant mental health crisis spirals in ICE detention facilities,” *Politico*, July 21, 2019, <https://www.politico.com/story/2019/07/21/migrant-health-detention-border-camps-1424114>; José Olivares, “ICE Review of Immigrant’s Suicide Finds Falsified Documents, Neglect, and Improper Confinement,” *The Intercept*, Oct. 23, 2021, <https://theintercept.com/2021/10/23/ice-review-neglect-stewart-suicide-corecivic/>.

62 See Mem. of Agreement Among the Off. of Refugee Resettlement of the U.S. Dep’t of Health & Hum. Services and U.S. Immigr. and Customs Enf’t, U.S. Customs and Border Prot. of the U.S. Dep’t of Homeland Sec. Regarding Consultation and Information Sharing in Unaccompanied Alien Children Matters, Mar. 11, 2021, <https://www.aila.org/infonet/dhs-and-hhs-terminate-2018-agreement-regarding-ORR-Policy-Guide-%25.8.8>, last revised Oct. 21, 2021; Hannah Dreier, “Trust and Consequences,” *Wash. Post*, Feb. 15, 2020, <https://www.washingtonpost.com/graphics/2020/national/immigration-therapy-reports-ice/>.

63 See Women’s Refugee Comm’n, Nat’l Immigrant Justice Center, and American Univ. Washington College of Law Clinical Program, *Children as Bait: Impacts of the ORR-DHS Information-Sharing Agreement*, Mar. 2019, <https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2019-03/Children-as-Bait.pdf>.

64 See Dreier, “Trust and Consequences.”

65 See Hannah Dreier, “To stay or to go? Amid coronavirus outbreaks, migrants face the starkest of choices: Risking their lives in U.S. detention or returning home to the dangers they fled,” *Wash. Post*, Dec. 26, 2020, <https://www.washingtonpost.com/nation/2020/12/26/immigration-detention-covid-deportation/?arc404=true>.

66 Women’s Refugee Comm’n et. al., *Children as Bait*.

67 Redacted Ex. 74 ¶ 19, *Lucas R. v. Azar*, ECF No. 266-32 (C.D. Cal. Oct. 2, 2020).

68 Compare ORR Policy Guide § 5.8.8, last revised Oct. 21, 2021, and ORR Policy Guide § 5.8.5, last revised Aug. 2, 2018.

69 ORR Policy Guide § 5.8.8, last revised Oct. 21, 2021.

70 ORR Policy Guide §5.10.2, eff. June 27, 2022. See also ORR, Field Guidance #7: Interim Guidance - Information Sharing with Immigration Courts and DHS, Feb. 7, 2021, <https://www.acf.hhs.gov/sites/default/files/documents/orr/FG-7%20Interim%20Guidance%20Information%20Sharing%20with%20Immigration%20Courts%20and%20DHS%202021%2002%2017.pdf>.

71 ORR Policy Guide § 5.9.1, eff. Jun. 27, 2022.



72 Redacted Ex. 74 ¶¶ 15-16, *Lucas R.*, ECF No. 266-32 (C.D. Cal. Oct. 2, 2020).

73 ORR Policy Guide § 5.8.2, last revised July 12, 2021.

74 See Aura Bogado and Laura C. Morel, “I’m going to tase this kid’: Government shelters are turning refugee children over to police,” *Reveal*, June 8, 2021, <https://revealnews.org/article/im-going-to-tase-this-kid-government-shelters-are-turning-refugee-children-over-to-police/>.

75 ORR, Attachment A - Summary of Public Comments and ORR Responses, Administration and Oversight of the Unaccompanied Alien Children Program., Oct. 2020, No. 10, (“should a behavioral incident result in a call to law enforcement, all actions taken to address or de-escalate the situation would be captured in the ‘Staff Response and Intervention’ or ‘Follow-Up and/or Resolution’ fields of the SIR”).

76 Bogado and Morel, “I’m going to tase this kid.”

77 Melissa Sanchez and Anna Clark, “These Children Fled Afghanistan Without Their Families. They’re Stuck in U.S. Custody,” *ProPublica*, Mar. 25, 2022, <https://www.propublica.org/article/these-children-fled-afghanistan-without-their-families-theyre-stuck-in-u-s-custody>.

78 Melissa Sanchez, “Dozens of Traumatized Afghan Kids Struggle Inside a Shelter That’s Ill-Equipped to Care for Them,” *ProPublica*, Oct. 28, 2021, <https://www.propublica.org/article/dozens-of-traumatized-afghan-kids-struggle-inside-a-shelter-thats-ill-equipped-to-care-for-them>.

79 ORR Policy Guide § 5.8, revised Jun. 7, 2021.

80 Excerpt from *El Futuro/The Future*, poem by unaccompanied child held in secure custody in Virginia. See Seth Michelson, (Settlement House, 2017), 78-79.

81 Notes kept with authors on file.

82 See, e.g., *American Academy of Child and Adolescent Psychiatry*, “Adolescent Development Part 1,” Dec. 2017, [https://www.aacap.org/AACAP/Families\\_and\\_Youth/Facts\\_for\\_Families/FFF-Guide/Normal-Adolescent-Development-Part-1-057.aspx](https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/Normal-Adolescent-Development-Part-1-057.aspx) (including “[resistance] to following their parents’ belief system or cultural traditions” and “[r]ule and limit testing” among “normal feelings and behaviors of the middle school and early high school adolescent”).

83 Terrio, *Whose Child am I?*, 124.

84 Disability Rights California, *The Detention of Immigrant Children*, 7, 25-26. See also Terrio, *Whose Child am I?*, 114-115 (“[L]ife in federal custody was anything but normal. All those in custody had to conform to the same communal living standards. . . All of the closed facilities I visited, including minimum-security shelters, were organized on a penal or psychiatric model: locked or monitored entry and exit and controlled movements inside, even in the absence of high fences, and barred windows or gated entrances”).

85 Redacted Ex. 74 ¶ 8, *Lucas R.*, ECF No. 266-32 (C.D. Cal. Oct. 2, 2020).

86 Excerpt from *El Futuro/The Future*, poem by unaccompanied child held in secure custody in Virginia. See Seth Michelson, *Dreaming America: Voices of Undocumented Youth in*

*Maximum-Security Detention*, Settlement House (2017), 28-29.

87 Becerra, *Immigration Detention in California*, 43.

88 See Disability Rights California, *The Detention of Immigrant Children with Disabilities*, 7, 25-26; First Amended Complaint, *Lucas R.*, *supra* n. 39.

89 See Disability Rights California, *The Detention of Immigrant Children with Disabilities*, 15.

90 See, e.g., *Shenandoah Valley*, 985 F.3d 327, 347 (4th Cir. 2021); Chiedi, *Care Provider Facilities Described Challenges*, 14-15; Becerra, *Immigration Detention in California*, 62. See also Terrio, *Whose Child am I?*, 122 (“Because mental health services were limited in ORR facilities. . . staff focused on controlling the symptoms, rather than addressing the causes, of behavior problems through medication”).

91 Chiedi, *Mental Health Needs of Children in HHS Custody*, 12-13; Becerra, *Immigration Detention in California*, 38.

92 Redacted Ex. 74 ¶ 9, *Lucas R.*, Case, ECF No. 266-32 (C.D. Cal. Oct. 2, 2020).

93 S.A. Bryson et al., “What are effective strategies for implementing trauma-informed care in youth inpatient psychiatric and residential treatment settings? A realist systematic review,” *International Journal of Mental Health Systems*, 11, no. 36 (2017): 3, <https://doi.org/10.1186/s13033-017-0137-3>.

94 *Ibid.*, 2 (“[N]urturing relationships can provide a ‘buffer’ against the effect of childhood trauma through the co-regulation of stress. [Trauma-informed care] aims to create a treatment culture of nonviolence, learning, and collaboration by rebuilding the child’s sense of control and empowerment. TIC seeks to avoid traumatizing practices such as seclusion and restraint”).

95 Ross W. Greene et al., “Innovations: child and adolescent psychiatry: use of collaborative problem solving to reduce seclusion and restraint in child and adolescent inpatient units,” *Psychiatric Serv.* 57, no. 5 (2006): 57: 611, <https://ps.psychiatryonline.org/doi/full/10.1176/ps.2006.57.5.610>.

96 See, e.g., Bryson, “What are effective strategies,” 14 (seclusion and restraint episodes declined from 281 in the 9 months before training on collaborative problem solving to one incident 15 months post-training; staff and patient injuries also significantly declined); K. Murphy et al., “Trauma-informed child welfare systems and children’s well-being: a longitudinal evaluation of KVC’s bridging the way home initiative,” *Child Youth Serv. Rev.* 75 (2017): 23-34, <https://www.sciencedirect.com/science/article/pii/S0190740917301342?via%3Dihub> (systemwide reform effort to provide trauma-informed care resulted in greater improvements in child functioning, emotional regulation, and behavioral regulation and increased placement stability).

97 Forkey “Trauma-Informed Care,” 14 (“Use of formalized training in TIC for all staff has been found to be effective in changing staff-reported beliefs and behaviors for caregivers of children in residential care and in improving child functioning and behavioral regulation”).

98 Charles V. Izzo et al., “Intervening at the Setting Level to Prevent Behavioral Incidents in Residential Child Care: Efficacy of the CARE Program Model,” *Prev. Sci.* 17 (2016): 554-564, [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4887550/pdf/11121\\_2016\\_Article\\_649.pdf](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4887550/pdf/11121_2016_Article_649.pdf) (evidence-based, trauma-informed intervention model focusing on improving children-staff interactions and



organizational functioning resulted in significant declines in behavioral incidents of aggression toward staff, destruction of property, and runaways among children in residential care); Martha J. Holden and Deborah E. Sellers, "An Evidence-Based Program Model for Facilitating therapeutic responses to Pain-Based Behavior in Residential Care," *Int'l J. of Child, Youth and Family Studies* 10, nos. 2-3 (2019): 70-71, <https://journals.uvic.ca/index.php/ijcyfs/article/view/18853>.

99 V. Mavandadi et al., "Effective ingredients of verbal de-escalation: validating an English modified version of the 'De-Escalating Aggressive Behaviour Scale,'" *J. of Psychiatric Mental Health Nursing* 23, nos. 6-7 (2016): 3, <https://pubmed.ncbi.nlm.nih.gov/27271938/> (outlining seven qualities necessary for verbal de-escalation, including valuing the individual, reducing fear through active listening and empathy, inquiring about the individual's queries and anxiety, providing guidance to the individual, working out possible agreements with short-term solutions and long-term actions plans, remaining calm, and maintaining distance from the individual to ensure safety).

100 Nutmeg Hallett and Geoffrey L. Dickens, "De-escalation of aggressive behaviour in healthcare settings: Concept analysis," *Int'l J. of Nursing Studies*, 75 (2017): 10-20, <https://doi.org/10.1016/j.ijnurstu.2017.07.003> (emphasizing role of self-regulation—maintaining calm, emotional regulation, assertiveness, self-control, and confidence—as well as safety assessments such as observing early warning signs and approaching individuals with slow, careful movements as part of the attributes of de-escalation).

101 See, e.g., Terrio, *Whose Child am I?*, 120 ("In custody children were subjected to a comprehensive step-by-step 'behavioral plan' that centered on the identification, classification, and modification of problem behaviors...The behavioral plan was intended to condition children to replace 'inappropriate behaviors' with 'appropriate' ones based on a nonpunitive 'system of privileges' and consequences").

102 *Lucas R.*, 2022 WL 2177454, at \*7 (C.D. Cal. Mar. 11, 2022), <https://youthlaw.org/sites/default/files/2022-03/Doc%20376.pdf>.

103 Flores Settlement Agreement, ¶ 14.

104 Congressional Research Service, *Unaccompanied Alien Children: An Overview*, Sept. 1, 2021, R43599, p. 17, <https://sgp.fas.org/crs/homesec/R43599.pdf>.

105 ORR Policy Guide § 5.8, last revised July 12, 2021.

106 *Ibid.*, § 5.8.

107 *Ibid.*, § 5.8.2 (emphasis in original).

108 *Ibid.*, § 1.2.2.

109 July 1, 2022 ORR Juvenile Coordinator Report, 7.

110 *Ibid.*, 11.

111 *Ibid.*, 7.

112 ORR Policy Guide § 7.1, last revised Sept. 18, 2019.

113 See July 1, 2022 ORR Juvenile Coordinator Report, 9. See also "Sources Sought to Lease Space for an Unaccompanied Children Influx Care Facility in New York, New Jersey, and Pennsylvania," <https://sam.gov/opp/f8dc161f2c774d5490c7546c70faee8c/view>; "Sources Sought to Lease Space for an Unaccompanied

Children Influx Care Facility in Southern California," <https://sam.gov/opp/52c54790b9ea416286699528a01f129f/view>; "G--Direct Care for Unaccompanied Children, Carrizo Springs - ORR," <https://sam.gov/opp/72b1d7b4d0cc4d5db14c7f1c1b4eb8db/view>.

114 ORR Field Guidance #13, Emergency Intake Sites (EIS) Instructions and Standards, April 30, 2021, <https://www.acf.hhs.gov/sites/default/files/documents/orr/FG-13%20EIS%20Instructions%20and%20Standards%202021%2004%2030.pdf>.

115 *Ibid.*, 1.

116 Neha Desai, Diane de Gramont, & Allyson Miller, *Unregulated & Unsafe: The Use of Emergency Intake Sites to Detain Immigrant Children*, June 24, 2021, 21, <https://youthlaw.org/unregulated-unsafe-emergency-intake-sites>.

117 July 1, 2022 ORR Juvenile Coordinator Report, 7.

118 ORR Policy Guide § 1.2.4, last revised Oct. 10, 2018. Other factors include whether the child "is an escape risk"; "has reported gang involvement" or "displays gang affiliation while in care"; "has non-violent criminal or delinquent history not warranting placement in a secure care provider facility, such as isolated or petty offenses"; or "is ready for step-down from a secure facility."

119 ORR Policy Guide: Guide to Terms, last revised July 19, 2022, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-guide-terms>.

120 July 1, 2022 ORR Juvenile Coordinator Report, 7.

121 *Lucas R.*, 2022 WL 2177454, at \*7.

122 8 U.S.C. § 1232(c)(2)(A). See also ORR Policy Guide § 1.2.4, last revised Oct. 10, 2018 (criteria for placement in secure facility); Flores Settlement Agreement, ¶ 21 (ORR may place a child in a secure facility if it determines that the child (1) "has been charged with, is chargeable, or has been convicted of a crime, or is the subject of delinquency proceedings, has been adjudicated delinquent, or is chargeable with a delinquent act," except in the cases of "isolated" or "petty" offenses; (2) "[h]as committed, or has made credible threats, to commit a violent or malicious act" while in ORR custody; (3) "has engaged . . . in conduct that has proven to be unacceptably disruptive of the normal functioning of the licensed program in which he or she has been placed and removal is necessary to ensure the welfare of the minor or others, as determined by the staff of the licensed program"; (4) "is an escape-risk"; or (5) "must be held in a secure facility for his or her own safety").

123 July 1, 2022 ORR Juvenile Coordinator Report, 7.

124 ORR Policy Guide § 1.2.6, last revised Oct. 15, 2015.

125 Ariz. Admin. Code. § R9-10-101.

126 Ariz. Rev. Stat. Ann. § 36-418.

127 Ariz. Rev. Stat. Ann. § 13-3620. "Reportable offense" refers to numerous criminal offenses against children, many of which are incorporated into the definition of "abuse." Ariz. Rev. Stat. Ann. §§ 8-201(2)(a), 13-3620(P)(4). "Reportable offense" also includes non-accidental injuries inflicted on children by other children. State of Arizona, Attorney General Opinion No. I07-006, April 9, 2007, <https://www.azag.gov/sites/default/files/2018-06/I07-006.pdf>.

128 Cal. Code Regs. Tit. 22 § 80061.

129 Cal. Penal Code § 11166(a); Cal. Health & Safety Code Ann. § 1517.

130 Ill. Admin. Code tit. 89, § 331 (“Unusual Incidents Involving Children and Youth”).

131 Ill. Admin. Code tit. 89, § 300.30; 325 Ill. Comp. Stat. Ann. 5/4.

132 N.Y. Comp. Codes, R. & Regs. tit. 18, § 441.7;

133 NY OCFS Policy and Procedure, Foster Care Incident Reporting, 2022, [https://www1.nyc.gov/assets/acs/pdf/draft\\_policies/2022/FCIncidentReporting.pdf](https://www1.nyc.gov/assets/acs/pdf/draft_policies/2022/FCIncidentReporting.pdf).

134 NY OCFS Policy and Procedure, Foster Care Incident Reporting, 2022, [https://www1.nyc.gov/assets/acs/pdf/draft\\_policies/2022/FCIncidentReporting.pdf](https://www1.nyc.gov/assets/acs/pdf/draft_policies/2022/FCIncidentReporting.pdf).

135 N.Y. Soc. Serv. Law § 413.

136 N.Y. Soc. Serv. Law § 488(i)(2)(A-D); N.Y. Comp. Codes, R. & Regs. tit. 18, §§ 432.3-433.2.

137 26 Tex. Admin. Code § 748.301; Texas Dep’t. of Family and Protective Serv., 24-Hour Residential Child Care Requirements, §1411 Reporting Serious Incidents to DFPS, [https://www.dfps.state.tx.us/Doing\\_Business/Purchased\\_Client\\_Services/Residential\\_Child\\_Care\\_Contracts/documents/24\\_Hour\\_RCC\\_Requirements.pdf](https://www.dfps.state.tx.us/Doing_Business/Purchased_Client_Services/Residential_Child_Care_Contracts/documents/24_Hour_RCC_Requirements.pdf).

138 26 Tex. Admin. Code § 748.303.

139 Tex. Fam. Code Ann. § 261.101(a); Tex. Fam. Code §§ 101.003, 261.001-261.111; Tex. Health and Safety Code §§ 248A.001, 260A.001, 260A.002; Tex. Penal Code § 12.21.

Prepared by:



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Punishing Trauma: Significant Incident Reports and Children in Immigration Proceedings  
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