



Where We Stand: A 20-Year Retrospective of the Unaccompanied Children's Program in the United States

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EXECUTIVE SUMMARY

Where We Stand: A 20-Year Retrospective of the Unaccompanied Children's Program in the United States reviews the Unaccompanied Children's Program from the passage of the Homeland Security Act (HSA) of 2002 until today. It assesses 20 years of legislation, policies, litigation, and, most importantly, the U.S. federal government's care of unaccompanied migrating children, with a view toward the next steps and improvements for the years ahead.

As described in Chapter One, the HSA transferred responsibility for the care and placement of unaccompanied children from the Commissioner of the Immigration and Naturalization Service to the Director of the Office of Refugee Resettlement (ORR). It was a significant step toward providing appropriate care for unaccompanied children. But the statutory direction was weak, and the transfer left gaps, interagency disagreements, and other challenges that plagued the program for years.

One of those challenges was the ongoing *Flores* litigation, which is introduced in Chapter Two. Another challenge was the lack of clear statutory guidance in major programmatic and operational areas. The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) addressed many of those areas and is discussed in Chapter Three. The TVPRA included provisions on the "best interest" standard, transfers of children to ORR, home study and post-release service requirements, access to counsel, and Special Immigrant Juvenile (SIJ) status. Chapter Four highlights two of these areas: home studies/post-release services and SIJ status.

Chapter Five looks at the events that followed the 7.0 magnitude earthquake that devastated Haiti in 2010 and brought many Haitian children to the United States as unaccompanied children. Chapter Six follows with information about the first significant surge, or influx, of unaccompanied children into the United States. Chapter Seven discusses ORR's publication of the interim rule on the prevention of sexual abuse. Finally, Chapter Eight, noting the lessons learned from the past, offers recommendations for the future of the care of unaccompanied children.

Over the years, the involved federal agencies, Congress, and nonprofit and advocacy organizations have worked to make changes as the program continued to have tremendous growth. Although the implementation of the changes was often slow, it was made, and many of those changes have resulted in a better system of care for unaccompanied children. The U.S. Committee for Refugees and Immigrants and The Children's Village will continue to highlight the experiences of the past, using them to inform our current work with unaccompanied children and building on them to make recommendations for program improvements so that all children can move through their journeys in safety, with their rights protected, and with hope for their futures.



RECOMMENDATIONS

Recommendation 1: Make post-release services for all unaccompanied children a legal requirement.

Congress has only specified that certain children receive home studies and post-release services. To ensure the safety of all unaccompanied children after release, we recommend that Congress clarify in law and provide appropriations for ORR's responsibility for the children's ongoing safety after release and require post-release services for all unaccompanied children.

Recommendation 2: Require ORR to appoint child advocates for the most vulnerable children.

Child advocates are underutilized and not clearly provided for under current law. We recommend that ORR be required to appoint child advocates for the most vulnerable children, specifically those expected to be in custody longer than 90 days and children who meet the current requirements for a home study.

Recommendation 3: Allocate funding so all unaccompanied children released from ORR custody have attorneys.

Lack of access to proper representation heightens the risk that children will not receive protections they are afforded under the law. The expansion of legal services is needed to successfully prevent and end the labor exploitation of unaccompanied children.

Recommendation 4: Expand the Unaccompanied Refugee Minors program.

For children without family or appropriate sponsors in the United States, we recommend an expansion of the Unaccompanied Refugee Minors program to create additional placements and more appropriate services for unaccompanied children.

Recommendation 5: Develop new and creative support programs for unaccompanied children after release.

Create a mentoring program, pairing unaccompanied children post-release with former unaccompanied children who can provide guidance and connection in their new communities.

Recommendation 6: Ratify the United Nations Convention on the Rights of the Child (UNCRC).

The treaty was the first to establish international standards on the rights of children. If the United States wants to continue to promote child rights internationally, and affirm the rights of children domestically, we must ratify the UNCRC.

