



Juvenile and Family Residential Management Unit

Field Office Juvenile Coordinator Handbook

Enforcement and Removal Operations



U.S. Immigration
and Customs
Enforcement

Document Number:

Effective Date:

Office of Primary Responsibility:

Juvenile and Family Residential Management Unit Field Office Juvenile Coordinator Handbook

Enforcement and Removal Operations

September 2017

Approved by: _____

Title: Executive Associate Director

Date Signed: SEP 1 2017

**Enforcement and Removal Operations
Juvenile and Family Residential Management Unit
Field Office Juvenile Coordinator Handbook**

FOREWORD

This handbook was developed by the Juvenile and Family Residential Management Unit (JFRMU), Enforcement and Removal Operations (ERO) as an operational guide for Field Office Juvenile Coordinators (FOJC).

This handbook guides ERO staff in processing, transporting, managing, and removing minors encountered by the Department of Homeland Security (DHS). It is based on current U.S. Immigration and Customs Enforcement (ICE) policies and procedures and will assist ERO employees in adhering to legislative mandates when encountering minors and unaccompanied alien child/children (UAC).

This handbook refers to current policies, field guidance, and best practices. As there may be amendments or updates to current policies or memorandums, always refer to the most current document. Each field office may have geographic or operational variances that require alterations to certain best practices; ensure all such adjustments comply with the *Flores* Settlement Agreement and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), and receive concurrence from your respective chain of command.

Finally, this handbook is an internal product of ICE. This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create or diminish any rights, substantive or procedural, enforceable at law or equity by any party in any criminal, civil, or administrative matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.

*Matthew T. Albence
Executive Associate Director*

Table of Contents

1	Introduction to JFRMU	10
1.1	Processing Minors.....	11
1.2	Interactions with Minors	11
1.3	UAC Operational Process	11
1.3.1	Screening.....	12
1.3.2	UAC Processing Timelines.....	12
1.3.3	ERO Responsibilities	13
1.4	Roles and Responsibilities of a FOJC.....	13
1.5	Training Requirement	14
2	Legislation and Judicial Mandates.....	16
2.1	The <i>Flores</i> Agreement	16
2.2	Homeland Security Act of 2002.....	16
2.3	<i>Perez-Fuñez</i>	17
2.4	Trafficking Victims Protection Reauthorization Act	18
2.5	Violence Against Women Act Reauthorization of 2013.....	18
2.6	The Prison Rape Elimination Act (PREA) of 2003	19
2.6.1	Allegations of Sexual Abuse and Assault.....	19
2.6.2	PREA Reporting for Individuals with Disabilities or Limited English Proficiency (LEP)	19
3	Operational Requirements.....	20
3.1	Processing a UAC	20
3.1.1	Apprehension at the Border	20
3.1.2	Age Determination Procedures	21
3.1.3	Screening of a UAC	23
3.1.4	Screening of ICE Apprehended UAC: Human Trafficking	24
3.1.5	HSI Operations Referrals	25
3.1.6	Minors Who Surrender Themselves to Law Enforcement.....	26
3.1.7	Child Protective Services	26
3.1.8	Operations of ERO Staging/Holding Areas	26
3.1.9	Meals and Snacks During Transport.....	30
3.1.10	Reunification Before ORR Transfer	30
3.1.11	Request for ORR Placement	31

3.1.12	ERO Required Transportation Notifications.....	33
3.1.13	Transportation Request	33
3.1.14	Transport Documents.....	34
3.1.15	Escort Requirements	34
3.1.16	Requirements for Transfer of Custody to ORR	34
3.1.17	Medical Screening and Medications	35
3.1.18	Money, Valuables, and Other Personal Property	35
3.1.19	Driving Hours	36
3.1.20	Use of Restraints	37
3.1.21	Contractor-Led Transport	38
3.1.22	Emergency Situations	38
3.2	Case Management.....	38
3.2.1	Book-In Procedures.....	38
3.2.2	Book-Out Procedures.....	39
3.2.3	Alien File Process	39
3.2.4	Reviewing Charging Documents	40
3.2.5	Docket Management	43
3.3	Age-Outs.....	43
3.3.1	ICE Custody.....	43
3.3.2	Post-18 Plans.....	44
3.4	Removals and Returns	45
3.5	Specific Case Scenarios	48
3.5.1	Law Enforcement Agency Referrals.....	48
3.5.2	Interior ERO Apprehensions.....	49
3.5.3	UAC with Convictions.....	49
3.5.4	Sponsorship Breakdown after ORR Release.....	50
3.5.5	Non-UAC Minors with Status.....	51
3.5.6	Accompanied Minors Who Are Delinquent or Are Chargeable As Delinquent.....	51
3.5.7	Non-UAC Minors and Notice of Rights to Bond Redetermination.....	52
3.5.8	Emancipated Minors	52
3.5.9	Married UAC	53
3.5.10	ORR Runaway Cases	53
3.5.11	Deferred Action for Childhood Arrivals	54
3.5.12	Juvenile Detainers under Secure Communities	54

3.5.13	Special Immigrant Juvenile Status	55
4	FOJC Engagement with ERO Partners	57
4.1	ORR Intakes Staff.....	57
4.2	Local ORR Case Workers.....	57
4.3	Federal Field Specialists	58
4.4	Office of the Principal Legal Advisor Attorneys	58
5	External Relations.....	60
5.1	Non-Governmental Organizations	60
5.2	Consulates.....	60
6	Family Units.....	61
6.1	Family Intake Guidance and Procedures.....	61
6.2	Family Residential Center Intakes	61
6.3	Temporary Housing of FAMU	62
7	Reporting Requirements	63
7.1	Daily UAC Workload Reporting	63
7.2	“Hanging Transfers” Reporting	63
7.3	Monthly <i>Flores</i> Agreement Reporting.....	63

Glossary

Accompanied Alien Child: A non-citizen, juvenile who is encountered and who does not fall into the category of Unaccompanied Child or Family Unit.

Adult: Any person 18 years of age or older.

Alien: Any person who is not a United States citizen or national.

Contraband: Any item that aliens are not authorized to have in his or her possession while in the custody of ICE.

Detainee: Any alien booked into an ICE detention facility.

Escort: An officer who accompanies any person who has been arrested and/or detained under the authorities of ERO during transport or movement.

Exigent Circumstances: A situation requiring unusual or immediate action or aid and that may require ERO officers to circumvent usual procedures (e.g., to prevent imminent danger to life or safety of an officer, the alien or other detainee, or the public; serious damage to property; to forestall the imminent escape of a person in custody; or destruction of evidence).

Family Unit: An adult alien parent or legal guardian accompanied by their own juvenile alien child(ren).

Flight Risk: An alien who the officer believes may attempt to flee from ICE custody after arrest or in any form of detention, if he or she is not otherwise prevented from doing so.

Full Restraints: ICE-approved handcuffs, waist/belly chain, and leg irons.

Immigration Officer: An employee of the Department of Homeland Security designated as immigration officers authorized to exercise the powers and duties of such officers as specified by Act (e.g., Border Patrol agent, Deportation Officer, special agent, CBP Officer).¹

Juvenile: Any person who has not reached 18 years of age.

Pat-down Search: When an officer inspects an alien using his or her hands. The inspector uses his or her sense of touch when patting or running the hands over the clothed alien's body. It is considered the least intrusive of the body searches and should only be conducted by a staff member of the same gender. A pat-down does not require the alien to remove clothing, although the inspection includes a search of the alien's clothing and personal effects.

Search: An inspection of the alien's person and property for contraband in order to maintain good order and security.

¹ 8 CFR § 1.2

Tender Age: Any juvenile alien under 10 years of age.

Transport: Using a vehicle to move any person arrested or detained.

Unaccompanied Alien Child: A minor who has no lawful immigration status in the United States, has not attained 18 years of age, and has no parent or legal guardian in the United States (or no parent or legal guardian in the United States who is available to provide care and physical custody).²

Note: For the purpose of this document, “minors” refers to **all individuals under the age of 18**, to include both unaccompanied alien children (UAC) and minors accompanied by their parent and/or legal guardian. Minors, children, and juveniles are used synonymously. “UAC” is referenced wherever processing requirements are specific to them.

Weapon: Any object, item, or device that may be used to cause physical injury, incapacitate, or diminish a person’s capability, either temporarily or permanently.

² § 462(g) of the Homeland Security Act of 2002 (6 U.S.C §279(g)(2)

List of Acronyms

AOR	Area of Responsibility
ATD	Alternatives to Detention
BP	U.S. Border Patrol
CBP	Customs and Border Protection
COR	Contracting Officer Representative
CPS	Child Protective Services
DACA	Deferred Action for Childhood Arrivals
DCO	Docket Control Office
DHS	Department of Homeland Security
EABM	Enforce Alien Booking Module
EADM	Enforce Alien Detention Module
EARM	Enforce Alien Removal Module
EOIR	Executive Office for Immigration Review
ERO	Enforcement and Removal Operations
FFS	Federal Field Specialist
FOD	Field Office Director
FOIC	Flight Officer in Charge
FOJC	Field Office Juvenile Coordinator
HHS	Department of Health and Human Services
HSI	ICE Homeland Security Investigations
I-213	Record of Removability
I-770	Notice of Rights
I-830	Change of Address
I-862 or NTA	Notice to Appear
IAO	ICE Air Operations
ICE	Immigration and Customs Enforcement
IHSC	ICE Health Services Corps
IJ	Immigration Judge
INA	Immigration and Nationality Act
JFRMU	Juvenile and Family Residential Management Unit
LEA	Law Enforcement Agency
LEO	Law Enforcement Officer
LPR	Lawful Permanent Resident
NCIC	National Crime Information Center
NGO	Non-Governmental Organization
NTA	Notice to Appear
OFO	Office of Field Operations
OPLA	Office of the Principal Legal Advisor
OREC	Order of Recognizance
ORR	Office of Refugee Resettlement
OTM	Other than Mexican
PEP	Priority Enforcement Program
POE	Port of Entry
PREA	Prison Rape Elimination Act of 2003
SAAPI	Sexual Abuse and Assault Prevention and Intervention

SDDO	Supervisory Detention and Deportation Officer
SIJS	Special Immigrant Juvenile Status
SIR	Serious Incident Report
TD	Travel Document
TECS	Treasury Enforcement Communications System
TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
UAC	Unaccompanied Alien Child/children
USCIS	U.S. Citizenship and Immigration Services
VAS	Victim Assistant Specialist
VAWA	Violence Against Women Act Reauthorization of 2013

Introduction to JFRMU

1 Introduction to JFRMU

The Juvenile and Family Residential Management Unit (JFRMU) is a dedicated, high-level operational unit created to manage issues related to detaining alien minors and families by Immigration and Customs Enforcement (ICE). Within Enforcement and Removal Operations (ERO), JFRMU manages the needs of Unaccompanied Alien Children (UAC) and family groups who enter ERO custody. JFRMU supports ERO's mission: to enforce the nation's immigration laws in a fair and effective manner. JFRMU helps to identify removable aliens, detains these individuals when necessary, and removes illegal aliens from the United States. JFRMU works primarily with recent border entrants and individuals seeking asylum, and ensures that these individuals receive due process and just treatment as they move through immigration proceedings.

In addition to supporting ERO's mission, JFRMU focuses on creating policy and issuing field training regarding best practices and appropriate interactions with all children and families according to their developmental needs. Additionally, JFRMU is the business owner of the Family Residential Standards, and oversees an independent compliance program that inspects family residential centers. JFRMU established and now oversees transportation of UAC and family units, and is responsible for nearly all UAC transports nationwide. JFRMU implemented a language services program providing indigenous language interpretation for residents in family residential centers, to improve meaningful access to services within the facilities.

ERO complies with the Department of Homeland Security (DHS) regulations implementing the Prison Rape Elimination Act, "Standards To Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities," 6 CFR Part 115 et seq. (DHS PREA), as well as ICE Directive No. 11062.2, "Sexual Assault and Abuse Prevention and Intervention" (May 22, 2014). JFRMU team members monitor facility compliance with these rules and regulations. Team members coordinate with investigative bodies and work with ERO field offices to implement new operational protocols in response to investigative and/or compliance related findings.

Externally, JFRMU coordinates with DHS's Customs and Border Protection (CBP), the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR), and non-governmental organizations (NGOs). Internally, JFRMU trains, monitors, and advises Field Office Juvenile Coordinators (FOJCs), who serve as their field offices' subject-matter experts on juvenile and family matters. JFRMU coordinates trainings and issues guidance on appropriate case management for children and families in ICE custody, and FOJCs in turn advise their ICE colleagues and others who support JFRMU in fulfilling ICE's mission.

JFRMU's experienced and diverse staff embodies the spirit of this mission. Our National Juvenile Coordinators provide guidance and technical assistance to ERO field officers located throughout the United States. The National Family Coordinator and Compliance Officers provide ongoing and independent review of facility operations and compliance with the FRS. JFRMU's

administrative staff oversees contracts, drafts and issues policy, and manages internal and external communications. Highly trained and specialized contract staff support various initiatives.

1.1 Processing Minors

FOJCs are responsible for identifying, processing, transporting UAC, and managing UAC caseloads, and must take into account the unique needs and differences minors have from traditional adult populations.

Because of minors' unique needs and developmental differences, processing and issuing minors' charging documents takes priority over all other immigration processing, with very young children receiving the highest priority.³ Placing tender-age UAC into appropriate housing, in cooperation with ORR, is the highest priority.

1.2 Interactions with Minors

Minors think, act, and react differently from adults. Developmentally speaking, minors do not have the same comprehension levels as adults, and comprehension levels vary greatly from very young children to teenagers. ERO officers and contractors are required to consider language, culture, and possible prior traumatic experiences during encounters with minors. In addition, like adults, many minors may have been preconditioned to respond to police and other government authority figures with distrust and/or fear.

When speaking to a UAC, use plain language expressed in an age-appropriate tone. The FOJC may be the first plain-clothes officer that a UAC interacts with; it's recommended that the officer take the opportunity to build rapport with the UAC and help the child feel safe while in ERO custody.

1.3 UAC Operational Process

Several DHS components retain responsibilities for apprehending and managing UAC, Family Unit (FAMU), and other accompanied minors. CBP, including its U.S. Border Patrol (BP) and Office of Field Operations (OFO), and ICE's ERO apprehend, detain, process, transport, and repatriate these groups. ICE's Homeland Security Investigations (HSI) also apprehends these groups; however, ERO retains immigration-related responsibilities such as case management for all individuals placed in immigration proceedings.

Upon a UAC's arrival to a DHS processing area, the apprehending DHS officer takes fingerprints of UAC 14 years and older and initiates a search in the IDENT system to determine

³ ERO Broadcast: "Service of the Notice to Appear (NTA) on Unaccompanied Alien Children (UAC)," August 22, 2016

any prior apprehensions and to verify identity. The officer also initiates a criminal record check to verify if the UAC had any previous criminal history.

1.3.1 Screening

The TVPRA requires all UAC who are apprehended at a land border or Port of Entry (POE) from a country contiguous with the United States, to undergo a screening process (within 48 hours) prior to repatriation if they express a wish to withdraw their request for admission⁴. As a matter of policy, CBP also screens all UAC that they encounter in order to identify any indicators of human trafficking or fear of return to their home country. CBP will refer potential human trafficking cases to HSI for further investigation.

ERO officers screen any newly encountered UAC in the interior for indicators of human trafficking. If the UAC indicates potential victimization within the United States during screening or at any time, the Human Smuggling and Trafficking Center, the local HSI office, and ORR must be notified.

Under the TVPRA, Mexican and Canadian UAC may be permitted to withdraw their application for admission if they meet the following criteria: is able to make an independent decision to withdraw the application for admission to the United States, does not have a fear of returning to his or her country of origin, and has not been a victim of trafficking and there is no credible evidence the child is at risk of being trafficked if returned to the country of origin. All UAC whom DHS seeks to remove from the United States should be placed in removal proceedings under § 240 of the Immigration and Nationality Act (INA). The TVPRA prohibits ERO from granting Voluntary Return, effecting Expedited Removal, or reinstating the prior removal order of any UAC.

1.3.2 UAC Processing Timelines

Processing requirements differ for UAC. By law, all UAC must be transferred from DHS custody, except in the case of exceptional circumstances, to ORR custody within 72 hours of their identification as an unaccompanied minor. Upon apprehension—and if not repatriated at the border—once processed, all UAC placed in immigration proceedings are transferred to ORR.

Once ORR designates placement of UAC, in accordance with local agreements, CBP or ERO transport UAC to ORR custody. CBP conducts most local transport in South Texas, and ERO conducts long-distance transports (per local agreements). ORR houses UAC in children's shelters, staff-secure, and secure facilities. ORR also maintains bed space in residential treatment facilities for children with special needs. ORR places young children or UAC who are

⁴ (8 U.S.C. § 1232(a)(2)(A))

accompanied by their own children in foster care or facilities with permits to house young children and infants.

The UAC will remain in ORR custody until released to a sponsor or transferred to foster care. ERO initiates § 240 proceedings, maintains general UAC case management, resolves any issues with the A-File and Notice to Appear (NTA) to ensure proper service, and works with the Office of Chief Counsel (OCC) to file the NTA with the Executive Office for Immigration Review (EOIR). UAC may apply for various immigration benefits through U.S. Citizenship and Immigration Services (USCIS), including asylum, visas designed to assist victims of crime, abuse and neglect, domestic violence, and human trafficking.

Although CBP may repatriate some Mexican and Canadian UAC at the border, ERO retains responsibility for repatriating UAC ordered removed by an Immigration Judge (IJ). ERO no longer offers, as a matter of law, voluntary return or voluntary departure to any UAC apprehended in the United States from non-contiguous countries. ERO may, under limited circumstances, allow a UAC from a contiguous country who is apprehended at a land border or POE to withdraw his or her application for admission, if the UAC is properly screened and if return occurs within 48 hours of apprehension. In these situations, ERO should contact CBP for assistance in processing and repatriation.

1.3.3 ERO Responsibilities

Because of their unique needs, minors in ICE custody must be given special consideration as to their safety, security, immediate physical and mental health needs, and well-being. All minors and family units are to receive priority for processing and transportation above all other aliens in ICE custody. Additionally, ERO will process and transport verified family units including adult parent(s) and/or legal guardian(s) with their own minors together and with special consideration. This includes minors who may be accompanied by their own child(ren).

1.4 Roles and Responsibilities of a FOJC

FOJCs play an integral role in apprehending and processing UAC. FOJCs serve as the local subject-matter experts who provide policy guidance within their respective areas of responsibility. FOJCs are on call 24/7, as call-outs may be necessary to assist with the processing and placement of UAC. FOJCs are also responsible for facilitating arrangements between the arresting agencies, CBP or ICE, and the placement agency, ORR.⁵

When a UAC is encountered and transported to a hold room, the FOJC is responsible for ensuring that staff separate minors from unrelated adults. The FOJC must also account for the

⁵ Per the Homeland Security Act of 2002, HHS was given sole authority to make decisions on placement, transfer, and release of any UAC. The FOJC can recommend a placement location; however, ORR will ultimately make the determination on where a UAC will be placed.

minor's age, gender, and criminality when processing and placing the UAC. Per the *Flores* Settlement Agreement,⁶ it is the responsibility of the FOJC to ensure that minors are held in appropriate temporary holding cells that are safe, sanitary, and that provide access to toilets and sinks. The FOJC must ensure that the temporary hold room has adequate temperature control and provides adequate supervision to protect minors from others. In addition, the FOJC must also ensure that the UAC have access to drinking water, juice, milk, food, and snacks. The UAC should also have access to medical assistance if the minor is in need of emergency services. The FOJC should also assist juveniles by providing them a phone call to their parent, guardian, consular officer, or legal representative, and provide them with a list of free or low-cost legal service providers.

The FOJC is also responsible for managing the dockets of UAC in their Area of Responsibility (AOR), including:

- Following proper book-in and book-out procedures;
- Coordinating with ORR facilities during custody transfers of UAC;
- Coordinating with other FOJCs about A-file transfers, including sending A-files via express mail to the receiving FOJC;
- Ensuring that service of the NTA on UAC is proper;
- Cancelling a NTA if service is not proper, and issuing a new NTA;
- Working with the Office of Chief Counsel to file NTAs with the EOIR court; and
- Coordinating with UAC's consulate for travel documents, including making travel arrangements for the UAC to get repatriated safely to their home country.

An FOJC will also assist with case review and custody redetermination. Other duties include responding to inquiries from parents, legal guardians, legal counsel, case workers, ORR federal field specialists, and consulate representatives. An FOJC may also assist in coordinating with ORR shelters for UAC who have aged out, and assisting with age redeterminations.

1.5 Training Requirement

The TVPRA of 2008 requires specialized training for personnel:

The Secretary of State, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Attorney General shall provide specialized training to all federal personnel, and upon request, state and local personnel, who have substantive contact with unaccompanied alien children. Such personnel shall be trained to work with unaccompanied alien children, including

⁶ On July 6, 2016, the Ninth Circuit Court of Appeals issued its ruling on DHS' appeal, affirming in part and reversing in part the July and August 2015 orders issued by the United States District Court for the Central District of California. *See Flores v. Lynch*, No. 15-56434, 828F.3d 898 (9th Cir. Jul. 6, 2016). ICE continues to act as expeditiously as possible to process families in ICE Family Residential Centers, by generally limiting the average time in detention for all accompanied minors in the credible fear process to a target of 20 days. ICE also continues to seek licensing for the Family Residential Centers.

identifying children who are victims of severe forms of trafficking in persons, and children for whom asylum or special immigrant relief may be appropriate including children described in subsection (a)(2).⁷

JFRMU provides this national training annually. JFRMU's training provides an overview of all requirements for processing UAC cases as well as identifying victims of trafficking, assault, or abuse, and requesting ORR placement. To keep FOJCs updated with the most recent policy and regulation changes, each FOJC will attend annual training held by JFRMU. FOJCs are expected to conduct additional training, either formal or informal, in their field offices to educate fellow ERO officers and staff.

FOJCs must also participate in monthly conference calls with JFRMU.

⁷ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5075 (December 23, 2008); 8 U.S.C. § 1232(e).

Legislation and Judicial Mandates

2 Legislation and Judicial Mandates

2.1 The *Flores* Agreement

In 1997, the *Flores* Settlement Agreement (*Flores* Agreement)⁸ was signed as a result of a class-action lawsuit filed against the Immigration and Naturalization Service (INS). Under the conditions of the *Flores* Agreement, the INS agreed to uphold the following conditions among other things:

- Minors are placed in the least restrictive detention setting appropriate to the UAC’s age and special needs;
- Minors are segregated from unrelated adults during transport and temporary detention;
- Minors are transferred out of temporary location to a permanent location within 72 hours;
- Minors are treated with “dignity, respect, and with special concern due to vulnerabilities;”
- Minors have free and ready access to drinking water, food, and snacks;
- Attorney-client visits are permitted in juvenile facilities; and
- Minors must be placed in a licensed program (i.e., residential center) within 3 to 5 days and such facilities must be non-secure as required by state law, except that minors deemed to be delinquents, criminals or meeting other specific factors under the *Flores* Agreement may be placed in secure facilities.

Adherence to the *Flores* Agreement conditions extends to INS’ successor, DHS. While not a party to, HHS’ ORR generally follows the provisions of the Agreement. Recent litigation and court rulings have determined that the *Flores* Agreement applies to accompanied minors as well, including those who enter as members of family units. In addition to those items listed above, additional *Flores* advisals and Notice of Right to Judicial Review are required (See *Flores v. Lynch*, No. 15-56434, -828 F.3d 898 (9th Cir. Jul. 6, 2016)).

2.2 Homeland Security Act of 2002

On March 1, 2003, pursuant to the Homeland Security Act of 2002 (6 U.S.C. § 279), ORR assumed the authority for decisions related to the care and placement of UAC in federal custody. ORR takes the child’s best interests into consideration by:

- Making placement determinations for all UAC;
- Identifying a sufficient number of qualified individuals, entities, and facilities to house UAC;
- Overseeing the infrastructure and personnel of facilities in which UAC reside;

⁸ *Flores* Stipulated Settlement Agreement, January 17, 1997 and *Flores v. Lynch*, No. 15-56434, 828 F.3d 898 (9th Cir. Jul. 6, 2016).

- Reuniting UAC with a parent abroad in an approved case; and/or
- Reuniting UAC with parents or legal guardians within the United States.

While UAC are in the agency's care, ORR must ensure that the UAC:

- Appear for all immigration hearings/proceedings in which they are involved;
- Remain protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitative activity;
- Are placed in a setting in which they are not likely to pose a danger to themselves or others.⁹

2.3 *Perez-Fuñez*

*Perez-Fuñez*¹⁰ is a class action lawsuit challenging the manner in which INS implemented voluntary departure procedures and resulted in both a preliminary injunction and a permanent injunction issued in 1984 and 1985 respectively. The case involves two consolidated actions against INS: *Jose Antonio Perez-Fuñez, v. District Director* and *Yanira Pena and Claudia Pena v. Immigration and Naturalization Service*. The two plaintiffs challenged the way INS implemented its voluntary departure procedure as it pertained to UAC.

The injunction orders that any person taken into custody by the INS who is under the age of 18 and not accompanied by at least one of their lawful parents:

- Be verbally advised of rights verbatim, in English, Spanish or any language understood by the UAC;
- Be provided a copy of the written notice and a copy of a list of free or low-cost legal services; and
- Sign the acknowledgement on a separate copy of the notice indicating the notices have been provided and are understood.

It also outlines the UAC's rights to be represented by an attorney, to a hearing before an Immigration Judge (IJ), to apply for asylum, and to apply for voluntary departure.¹¹

Pursuant to 8 C.F.R. § 236.3(h) Notice of Rights (Form I-770) must be issued to all juveniles apprehended by DHS. The I-770 also provides instructions to DHS officers on meeting their obligations under the purview of law. See Section 3.1.3.2 "Form I-770 Notice of Rights and Disposition" for additional instruction.

⁹ The Homeland Security Act of 2002, Pub. L. No. 107-296, November 25, 2002.

¹⁰ *Perez-Fuñez v. District Director*, 611 F. Supp. 990 (C.D. Cal. 1984) (preliminary injunction ordered), 619 F. Supp. 656 (C.D. Cal. 1985) (permanent injunction ordered)

¹¹ *Perez-Fuñez v. District Director*, 611 F. Supp. 990 (C.D. Cal. 1984).

2.4 Trafficking Victims Protection Reauthorization Act

Signed into law on December 23, 2008, and reauthorized in 2013, the TVPRA is the most recent and comprehensive law that governs the apprehension, detention, and processing of UAC.¹² Where *Flores* applies to any minor in ICE custody, TVPRA specifically governs detention conditions for UAC in ORR custody. The TVPRA significantly affects DHS operations at ports of entry (POEs), at the northern and southern borders of the United States, and in the interior of the United States.

The provisions of the TVPRA:

- Define an unaccompanied alien child/children;
- Establish age determination procedures;
- Define the conditions of release reunification;
- Establish a screening process and eligibility for UAC from contiguous countries who may request voluntary return/withdrawal of application;
- Establish the time limit after screening process to notify HHS upon the initial encounter of UAC (48 hours);
- Establish in law the maximum transfer time for custody transfer of UAC to ORR (generally 72 hours, with some exceptions);
- Establish requirements for UAC to be placed in removal proceedings under § 240 of the INA;
- Transfer Special Immigrant Status authorization from DHS to ORR;
- Eliminate expedited removal proceedings, reinstatement of prior removal orders, and voluntary return (without seeing a judge).

2.5 Violence Against Women Act Reauthorization of 2013

The Violence Against Women Act Reauthorization of 2013 (VAWA) affords services and protections to specific populations of juvenile aliens, such as trafficking victims. VAWA § 1261 addresses settings for unaccompanied minors who reach the age of maturity (18 years) while in federal custody, and explains that minors transferred from the HHS to the DHS at the age of 18 shall be considered for placement in the least restrictive setting. Such placements should be considered after evaluating the individual's danger to self and the community, and risk of flight. These individuals are eligible to participate in programs such as Alternatives to Detention (ATD), using a continuum of alternatives based on the need for supervision.¹³

¹² The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5077 (December 23, 2008); 8 U.S.C.

¹³ The Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4 § 1261, March 7, 2013.

2.6 The Prison Rape Elimination Act (PREA) of 2003

PREA was signed into law in 2003 and promulgated in the 2014 DHS regulation titled, “Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities”. ICE has a zero tolerance policy for all forms of sexual abuse or assault. It is ICE policy to provide effective safeguards against sexual abuse and assault of all individuals in ICE custody. Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention (SAAPI) establishes ICE policies and procedures to implement the DHS regulation. The SAAPI Directive contains responsibilities for reporting; protection; response; and medical, mental health, and rape crisis advocacy representatives for victims. Further information regarding ICE’s PREA requirements are available here: <https://spapps.ice.dhs.gov/sites/SAAPICM/SitePages/Home.aspx>.

2.6.1 Allegations of Sexual Abuse and Assault

Definitions of sexual abuse and assault are set forth in Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention, 3.

All allegations of sexual abuse and assault will be reported immediately in accordance with Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention, 5.3 and 5.7.

Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention 5.4 requires that if an ICE employee has a reasonable belief that anyone is subject to a substantial risk of imminent sexual abuse or assault, the employee will take immediate action to protect the individual.

2.6.2 PREA Reporting for Individuals with Disabilities or Limited English Proficiency (LEP)

In accordance with Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention 5.6, individuals with disabilities or LEP shall have an equal opportunity to participate in, or benefit from, all aspects of ICE’s efforts to prevent, detect, and respond to sexual abuse and assault.

In-person or telephonic interpretive services shall be provided as set forth in Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention 5.6.

Operational Requirements

3 Operational Requirements

3.1 Processing a UAC

3.1.1 Apprehension at the Border

Most UAC are apprehended by CBP at points along the Southwest border and at POEs. CBP will process and house UAC until such time as ORR identifies bed space for the juvenile. It is ICE policy not to accept the custody of UAC from CBP until bed space has been designated.

Transportation from CBP housing to ORR shelters is a shared responsibility between CBP and ERO. FOJCs will coordinate extensively with CBP and ORR regarding the custody transfer and transport of UAC.

3.1.1.1 CBP Voluntary Return following Apprehension at the Border

The TVPRA allows for special rules for children from contiguous countries to the United States (Mexico/Canada). A UAC who is a national of either of these countries, once screened by CBP for human trafficking or fear of return, may be permitted to withdraw his or her application for admission to the United States.

Through a detailed screening process, CBP will determine whether a UAC has been a victim trafficking, and whether there is credible evidence that the juvenile will be trafficked upon returning to his or her home country. CBP also takes into consideration if the UAC is able to make an independent decision and without fear of returning home or fear of persecution.

An immigration officer, in most cases, a CBP officer, who finds that a UAC meets the above criteria at a land border or POE of the United States, and determines that such a child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), may:

- Permit such a child to withdraw his or her application for admission (voluntary return) pursuant to § 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and
- Return such a child to his or her country of nationality or country of last habitual residence.¹⁴

If the UAC does not meet such criteria or if no determination can be made within 48 hours of apprehension, the UAC must be immediately transferred to ORR.¹⁵

¹⁴ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5075 (December 23, 2008); 8 U.S.C. § 235(a) (2) (B).

¹⁵ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5076 (December 23, 2008); 8 U.S.C. § 235(a) (4).

The TVPRA prohibits ERO from granting voluntary return, effecting expedited removal, or reinstating the prior removal order of any UAC. To pursue a UAC's removal from the United States, DHS must serve an NTA and place him or her in removal proceedings under § 240 of the INA.¹⁶

3.1.2 Age Determination Procedures

In cases where the age of a subject is in question, the TVPRA requires that age-determination procedures include reviewing multiple forms of evidence. Under these procedures, each case must be evaluated carefully based on the totality of all available evidence, including the statement of the individual in question.

Determining the age of an individual can prove challenging for many reasons, including:

- Lack of documentation;
- Contradictory or fraudulent identity documentation or statements;
- Physical appearance of the alien; and/or
- Diminished capacity of the alien.

Until a determination can be made, the subjects must also immediately be separated from unrelated adults and other minors.¹⁷ ERO determines the age of individuals in custody consistent with “ORR Policy Guide Children Entering the United States Unaccompanied, 1.6: Determining the Age of an Individual without Lawful Immigration Status” (August 28, 2015). When an individual claims to be a juvenile, they must be provided all of the services provided to minors until a formal age determination can be made. Although minors must be separated from adults, the use of traditional segregation is to be avoided.

Acceptable documentation for age determination includes:

- Official government-issued documents, including birth certificates. If a document's authenticity is in question, or the alien does not possess documentation, verify the validity of the alien's claim by contacting government officials of the alien's home country; and
- Other objective documentation (e.g., baptismal certificates, school records, medical records) that indicate the alien's date of birth.

¹⁶ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § E, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.

¹⁷ Note: Follow the regulatory confidentiality protections afforded to asylum seekers and other protected classes when interacting with third parties, as provided in 8 C.F.R. § 208.6 and §1208.6.

Acceptable statements by individuals (including the one whose age is in question) asserting personal knowledge of the alien's age, and who ERO concludes can credibly attest to the person's age include:

- Statements provided by the individual regarding his/her age or birth date (an alien's uncorroborated declaration regarding his/her age should not be used as the sole basis for an age determination);
- Statements from the alien's parent(s) or legal guardian(s), if such persons can be identified and contacted; and
- Statements from other persons.

Information from another government agency (federal, state, local, or foreign) may include:

- State/local arrest records;
- Child welfare agency records; and
- Consular records.

As a last resort, age assessment procedures (e.g., dental and skeletal [bone] maturity assessments using x-rays or other medical techniques identified by the Age Determination Procedures for Custody Determination TPU 3 medical community as appropriate) may be used when no conclusive information is available.

- The examination will be performed by a medical professional experienced in age assessment method(s), taking into account the individual's ethnic and genetic background.

As no medical assessment method can determine an exact age, ORR policy uses the estimated probability in determining the age of the individual in making the age determination based on the totality of the evidence.

The FOJC can request assistance with medical age assessment from the Immigration Health Services Corps (IHSC) by initiating a "Medical Payment Authorization Request" through the IHSC Managed Care Branch. IHSC will coordinate with a licensed and credentialed forensic practitioner, and will provide a written report to the case officer on the same day as the examination, if possible. The report will detail the forensic method used to determine age, and the probability that the alien is a juvenile or an adult.

The medical age assessment reporting process is as follows:

- The examining doctor submits a written report indicating the probability percentage that the individual is a juvenile or an adult;
- The Field Office Director (FOD) or designee Supervisory Detention and Deportation Officer (SDDO) reviews the medical report; and

- If the probability of an individual being 18 years old or older is 75 percent or greater, and the totality of the evidence suggests the person is an adult, process the individual as an adult.

The final age determination will be made by the FOD, or designee, based on the totality of evidence provided. The FOD will promptly evaluate new information regarding the age of the individual in ERO custody if presented by the individual or his/her legal representative.

The FOJC maintains a record of results, especially radiographic (x-ray) results, in appropriate fields of the ENFORCE Custody Actions and Decisions Screen, and maintains a copy in the alien's A-file. The FOJC documents all information relied upon to determine age (the information referenced, data systems used, individuals or agencies consulted, statements, and conclusions) in accordance with local procedure using Form I-213, Record of Inadmissible/Deportable Alien; Form G-166C, Memorandum of Investigation; or memorandum to file.¹⁸

3.1.3 Screening of a UAC

Although the TVPRA requires that CBP screen UAC from contiguous countries for trafficking indicators, as a matter of policy, CBP screens all UAC it encounters.

3.1.3.1 Form CBP-93

CBP developed Form CBP-93-UAC Screening Addendum to assess the likelihood that a UAC has been a victim of trafficking or is at risk of being trafficked, fear of return due to credible fear of persecution, and assesses ability for independent decision-making. If the UAC claims to have been a victim, or appears to be at risk, removal proceedings will be initiated under INA § 240 and the UAC will be transferred to ORR custody. CBP will refer these cases to HSI for further investigation.

3.1.3.2 Form I-770 Notice of Rights and Disposition

The apprehending DHS component must provide all encountered unaccompanied minors with Form I-770 Notice of Rights and Disposition and an opportunity to express a fear of returning. The TVPRA stipulates that the USCIS Asylum Office has initial jurisdiction over all UAC who indicate a fear of return.¹⁹

¹⁸ Age Determination Procedures for Custody Determination, Policy Number ERO 11301.4, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, December 11, 2015.

¹⁹ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5079 (December 23, 2008); 8 U.S.C. § 1158(b)(3)(C).

Note: 8 C.F.R. § 236.3(h) requires that a juvenile be given Form I-770 Notice of Rights and Disposition. If the child is younger than 14 years of age or unable to understand the notice, it must be read and explained to the juvenile in a language he or she understands.

3.1.4 Screening of ICE Apprehended UAC: Human Trafficking

With the continued influx of UAC into the United States, increasing the number of daily encounters and apprehensions, ICE officers must remain cognizant of the possible signs of human trafficking.

ICE officers must screen any newly encountered UAC, regardless of their citizenship or nationality, for potential trafficking indicators. This requirement includes all interior ICE apprehensions, including minors who may have been previously encountered by CBP (but not those UAC who were apprehended by CBP and are being transferred by ERO to ORR custody). ICE should also apply this screening for those individuals who are identified as minors while in ICE custody, but may previously have been processed by CBP as an adult.

Processing officers must now screen every UAC for trafficking indicators using the questions below as a guide. While interviewing the UAC, ICE officers should engage with the UAC in a tone and manner appropriate for his or her age and level of development. Processing officers should engage with the local FOJC whenever a UAC is encountered to ensure proper processing actions are taken. Interview questions include the following:

- Is the UAC in possession of identification and travel documents? If not, who has control of the documents?
- Was the UAC coached on what to say to law enforcement and immigration officials?
- Was the UAC recruited for one purpose and forced to engage in some other job?
- Is the UAC paying off a smuggling fee?
- Was the UAC forced to perform sexual acts?
- Does the UAC have freedom of movement?
- Has the UAC or their family been threatened with harm if any members attempt to escape?
- Has the UAC been threatened with removal or law enforcement action?
- Has the UAC been harmed or deprived of food, water, sleep, medical care, or other life necessities?
- Can the UAC freely contact friends or family?
- Is the UAC having sex in return for money or payment in any kind?
- Is the UAC allowed to socialize or attend religious services?

Note: The above questions may need to be worded differently based on the UAC's age and ability to understand the question. Should the UAC's answer(s) indicate potential victimization, the FOJC should attempt to ascertain if the activity occurred within the United States or abroad.

If affirmative responses appear to indicate the UAC may be a victim of trafficking within the U.S., the officer must notify:

- The Human Smuggling and Trafficking Center at [REDACTED]
- The duty officer at the local HSI office; and
- The local HSI Victim Assistance Specialist (see JFRMU intranet page for current list).

The FOJC should update the “comments” section of the ENFORCE Alien Removal Module (EARM) to include any pertinent trafficking-related information. When making the referral to ORR, the FOJC should provide detailed information regarding any signs of potential victimization, regardless of where this victimization occurred, within the ORR Bed Space Placement Request Form.

For further guidance on identifying human trafficking, take the Human Trafficking Awareness Training and review the brochures in the appendix on the ICE Victim Assistance Program.²⁰

3.1.5 HSI Operations Referrals

HSI special agents are sometimes required to arrest and detain family units pending an arraignment with the local federal magistrate. In other instances, HSI may encounter UAC incidental to an ongoing investigative or enforcement action. In these instances, minors must be issued charging documents and transferred to ORR custody.

HSI Victim Assistant Specialists (VAS) may contact the FOJC with a specific case requiring action. The FOJC should advise the HSI VAS of the necessary operational processes specific to minors and families. When a juvenile *who has not been placed in removal proceedings* must be transferred to ORR, it is at the discretion of the ERO field office to assist with the transport request. It is highly recommended that local management have an existing plan in place with regard to how best to handle vulnerable cases.

When HSI special agents alert a FOJC that a juvenile has come into custody due to one of the above scenarios, the FOJC should seek answers to the following questions to help determine the best course of action:

- What status does the juvenile have?
- Is the juvenile unaccompanied?
- Was the juvenile apprehended with family? If so, was he or she with a parent or legal guardian?
- What is the criminal or delinquent history, if any?

²⁰ Broadcast: Screening of Unaccompanied Alien Children (UAC) Apprehended by ICE for Human Trafficking Indicators, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, February 4, 2016.

To help answer these questions, the FOJC must review the I-213 to help determine if the UAC traveled to the United States, or was recently living, with a family member. If the minor is determined to be accompanied, ICE should seek reunification with a parent or legal guardian as soon as possible, consistent with DHS enforcement priorities. Refer to Section 3.1.10 “Reunification Before ORR Transfer”. Seek JFRMU assistance for referrals that do not fit the above scenarios.

3.1.6 Minors Who Surrender Themselves to Law Enforcement

On occasion, minors may surrender themselves to local law enforcement, requesting to be turned over to ERO. The FOJC should first determine whether or not the juvenile is a foreign national. If a foreign national, and the juvenile has no lawful status, he/she is subject to removal proceedings. If the FOJC determines the juvenile meets the definition of a UAC, initiate 240 proceedings and refer the juvenile to ORR.

If the FOJC determines that the juvenile is accompanied and meets the criteria of Executive Order 13767, “Border Security and Immigration Enforcement Improvements” (January 25, 2017) or Executive Order 13768, “Enhancing Public Safety in the Interior of the United States” (January 25, 2017) and has criminal convictions, delinquency findings, or pending charges, the FOJC should seek JFRMU assistance. Refer to Section 3.5.6 “Accompanied Minors Who Are Delinquent or Are Chargeable as Delinquent” for further information.

In each of the above instances, both unaccompanied and accompanied juveniles must be screened for human trafficking. Refer to Section 3.1.4 “Screening of ICE Apprehended UAC: Human Trafficking”.

3.1.7 Child Protective Services

In rare instances, local Child Protective Services (CPS) authorities may have custody of a juvenile whose parent or legal guardian is in ICE custody. In these instances, seek JFRMU assistance: [REDACTED].

3.1.8 Operations of ERO Staging/Holding Areas

ERO established comprehensive standards for hold rooms during processing of minors, as directed in ICE Policy Directive No. 11087.1: “Operations of ERO Holding Facilities” (September 22, 2014). A staging/holding facility is a facility that contains hold rooms that are primarily used for the short-term confinement of individuals who have recently been detained, or are being transferred to or from a court, detention facility, another holding facility, or other agency. Individuals may not be placed in hold rooms for periods exceeding 12 hours.

3.1.8.1 Monitoring Minors within Hold Rooms

Please refer to Section 3.1.8.3 “Separation of Minors by Age, Gender, and Criminality” for considerations of least restrictive setting.

- Staff must maintain continuous, close, and direct visual monitoring of all minors. When the hold room is not in direct line of sight, visual checks must be performed at least every 15 minutes.
- If the hold room is not equipped with restroom facilities, the supervisor must position an officer within sight or hearing of each hold room so minors can be escorted to the restroom when requested. If there are no toilets in the hold room, staff should advise those being held that restrooms are available for use at any time and that they should notify any officer when they need to use the facilities.
- It is recommended that each field office purchase and maintain a supply of clothing for minors (e.g., shirts, sweatshirts, shoes, diapers). However, if the circumstances of the encounter prevent access to clothing or footwear and there is no readily available supply, arrangements must be made to purchase these items for the juvenile.
- Staff must maintain a separate juvenile detention log, or designated equivalent for every juvenile brought into ERO custody regardless of purpose (e.g., new arrivals, awaiting legal visitations, awaiting interviews, etc.).
- Staff assigned to monitoring minors in hold rooms must sign in before documenting the details of each “check-in” in the juvenile daily log or equivalent.
- All times must be documented when meals, drinks, snacks and when applicable, other items (e.g., blankets, sweaters, etc.) are provided or distributed.
- If a juvenile complains of harassment or any other safety issue with another juvenile, immediately separate the minors and notify the duty supervisor. Record all incidents into the juvenile log.

Note: Logged “check-ins” verifies compliance with standard operating procedures, creating a legally defensible historical record of the juvenile while in ERO care and custody.

3.1.8.2 Sexual Abuse and Assault Prevention and Intervention

Each ERO staging/holding area designated for the processing of UAC and/or family units must adhere to the zero-tolerance policy for sexual abuse or sexual assault. ICE policy on SAAPI²¹ establishes an integrated and comprehensive system of preventing and responding to sexual abuse or assault. The policy includes all phases of custody from initial encounter to transportation and final release from ERO custody. The SAAPI policy directive was established

²¹ ICE Policy Directive No. 11062.1: Sexual Abuse and Assault Prevention and Intervention (SAAPI) (May 11, 2012).

to be consistent with the PREA.²² SAAPI regulations are guidelines to prevent, detect, and respond to sexual abuse and assault of any individual, regardless of age, in ERO custody.

UAC and/or parents with accompanied children should not be confined in the same hold room as other detainees. Additionally, all juveniles must be detained in the least restrictive setting appropriate to the juvenile's age and special needs.

3.1.8.3 Separation of Minors by Age, Gender, and Criminality

ERO will not co-locate unaccompanied minors with unrelated adults in hold rooms. FAMU groups may be housed together under ICE supervision.

The layout of a holding area and the amount of traffic in the holding area will determine the least restrictive setting(s) in which to hold minors during processing. Every effort must be taken to ensure that the safety and well-being of the UAC.

Using available spaces (benches, interview rooms, break rooms, etc.), group the minors as follows:

- Ensure separation of those unrelated minors age 14 years and older from younger minors; and, whenever possible, separate the minors 10-to-13 year-olds from those age 9 and younger
- Separate males from females, and assign same-gender monitoring staff whenever feasible
- Whenever possible, keep siblings together (same and opposite-sex siblings) while in ERO custody. This is especially important when one sibling is young and the other sibling is older and may be the younger sibling's caretaker (note "caretaker" does not mean legal guardian). This will also better ensure that siblings are transported together
- If an arriving juvenile appears at higher risk of sexual or other form of abuse, separate the at-risk juvenile from potential aggressor(s). For example, minors with developmental delays or those lacking mental or physical maturity commensurate with their age should be separated from potential aggressors. In these instances, officers and staff should consider whether the special-needs juvenile requires additional supervision/observation beyond the required 15-minute checks discussed below.
- UAC who are accompanied by their own children should be housed together. They should not be housed with other UAC or unrelated adults. In some instances, it may be appropriate to house the minor and his/her child with other FAMU, under ICE supervision.
- Separate delinquent/criminal minors from other minors;
- For UAC referred to ORR, notify ORR in all instances when a referred UAC has a history of and/or has been convicted or found delinquent of a crime related to sexual abuse or any other serious offense(s). ORR must be notified of all reasons pertaining to placement.

²² Prison Rape Elimination Act of 2003, Pub. L. No 108-79, 117 Stat. 972 (2003).

3.1.8.4 Minors with Special Needs

If a disabled child arrives with an adult caregiver, staff may allow the adult to care for the child until their identity is verified. Additional supervision in these instances may be required. Often, ORR may be able to provide additional licensed staff to assist with special-needs children. For assistance and/or additional recommendations in cases such as these, contact the National Juvenile Coordinator.

3.1.8.5 Temporary Housing (Custody Determination or Placement Pending after 12 Hours)

Processing and issuing UAC charging documents takes priority over processing all adult detainees. Placing tender-age UAC into appropriate housing is ICE's highest priority. If placement is not possible before this 12-hour deadline because of limited resources or operational limitations:

- ERO must move UAC to a hotel or a JFRMU-approved under 72-hour local group home, shelter, or juvenile detention facility.

UAC can **NEVER** be placed into any adult detention facility.

Field offices are encouraged to have standing contractual agreements with local hotels. UAC placed in hotels may be supervised by ICE officers and/or approved ICE contractors.

- **Hotel rooms:** When using a hotel temporarily to house one or more UAC pending placement, have the individuals bring sufficient clothing and toiletries for the duration of their stay.
- **Under 72-hour facilities:** JFRMU maintains a list of approved facilities that may be used to house UAC. **If the local field office would like to propose a group home or juvenile-detention facility for use in the AOR, contact JFRMU at [REDACTED].**

3.1.8.6 Searches

Only when there is a reasonable suspicion that the UAC is concealing contraband should ERO officers conduct a search. Use the least intrusive search method practical—such as clothed pat-down searches, intake questioning, x-rays and metal detectors, etc.—to detect contraband. When operationally feasible, a same-gender officer shall conduct the search. At least one witness will observe if an opposite-gender officer search is necessary.

Do not subject anyone 14 years of age or younger to a pat-down search without explicit authorization from a supervisor. If a supervisor authorizes the pat-down, the approving supervisor's name, date, and time of authorization will be documented in the daily intake log.²³

3.1.9 Meals and Snacks During Transport

ERO officers must inquire and identify any special dietary needs for those requiring transport. The local food service provider must be notified of any special dietary needs prior to departure, to ensure that suitable food is available during the trip. The originating field office must provide meals for minors during transport whenever the time in transit will exceed four hours. The provided meals must be nutritional (of sufficient calories for the age/size of the minor). In accordance with ERO policies, and regardless of the trip's duration (or the time of day), snacks and drinks must remain available the entire time.

Additional stipulations for meal/snack provisions are as follows:

- A constant supply of drinking water, along with cups or bottles suitable for the juvenile's ease of use, must always be available;
- Consider the timing of the most recent meal when deciding when to serve the next meal;
- Observe safe food-handling procedures, including proper temperatures and refrigeration, personal hygiene, and general sanitation (cleaning and sterilization);
- If meals have not been provided because of an emergency or other ICE management-approved decision, purchase meals from a commercial source.

Note: Follow local procedures—including use of a government purchase card or other reimbursement procedures—when paying for meals.²⁴

3.1.10 Reunification Before ORR Transfer

If ERO encounters a child who identifies a parent or legal guardian who, within 24-48 hours, can provide care and physical custody, ERO may release the child to that parent or legal guardian if the FOJC can verify the relationship through supporting documentation. The parent/legal guardian must provide at least one document from each of the five categories, A – E, below:

A. Identity document:

- Passport;
- Consular Identification card;
- Notice to Appear; or
- Government-issued document.

²³ Operations of ERO Holding Facilities, Policy 11087.1, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, September 22, 2014.

²⁴ Field Guidance: Processing and Transportation of Unaccompanied Alien Children, Accompanied Minors, and Family Units, Juvenile and Family Residential Management Unit, December 2015.

- B. Legal document establishing the relationship:
 - Birth Certificates (sponsor's and minor's); or
 - Court order granting custodial rights for child(ren).
- Note:* a notarized letter is unacceptable.
- C. Proof of employment:
 - Letter from employer on letterhead stationery.
- D. Affidavit of support (I-134) establishing financial support from head of household.
- E. Proof of residence:
 - Lease/rental agreement; or
 - Utility bill.

If there are doubts about any of the above-listed documents and a supervisor approves further investigation, the FOJC should ask the local consulate for help with verification/authentication.

ERO must transfer custody to ORR within 72 hours of determining the child is unaccompanied (which generally means within 72 hours of apprehension) if a parent/legal guardian cannot meet the reunification requirements.

Even if the parent/legal guardian proves the relationship, he/she must physically reunite with the child within 24-48 hours; however, the logistics of travel might make that impossible. Because the time constraint may prevent an intended reunification, the FOJC must make contingency plans to facilitate timely transfer to ORR. ERO must comply with the TVPRA's requirement to transfer and must transfer unaccompanied children from ERO custody within 72 hours of determining that the child is unaccompanied.²⁵

3.1.11 Request for ORR Placement

Once a UAC has been identified, a request for ORR placement should be submitted via ORR's UAC Portal. Generally, it is the apprehending agency's responsibility to refer the child to ORR via the Portal. CBP has developed an electronic process where information entered in its system of record (E3) is automatically transferred into ORR's Portal. Because this process is automatic, no interaction is required on the part of ERO. In limited cases, ERO may need to assist non-DHS federal agencies in completing the referral process. **For UAC apprehended by CBP, ICE is not to take physical custody of the UAC until ORR has designated bed space for that juvenile.**

All FOJCs and FOJC Supervisors should have access to the UAC Portal. To request access, please contact JFRMU at [REDACTED].

In the event that the UAC Portal is not available, a placement request can be submitted by completing the UAC Initial Placement Referral Form and submitting to the ORR Intakes

²⁵ <https://insight.ice.dhs.gov/ero/custody/Documents/jfrmu/pdf/tvpра-field-guidance.pdf>

mailbox. This form is available on the JFRMU Intranet site: [REDACTED].

Complete the UAC Initial Placement Referral Form in its entirety, including as much detail as possible. Review and verify all information to ensure accuracy. Any identification documents (e.g., birth certificates, baptismal certificates, etc.) relating to the UAC should be submitted along with the form. Be sure to include any available contact information for parents, legal guardians, or adult relatives, as this information can assist in ORR's reunification process. Also include information related to medical conditions and criminal history, to allow ORR to place each UAC in a facility that is equipped to handle that UAC's specific needs.

A completed UAC Initial Placement Referral Form, along with any supporting documentation, should be scanned and emailed to [REDACTED] (with read receipt), or faxed to [REDACTED]. If there are concerns regarding the placement request, please call ORR Intakes directly at [REDACTED].

3.1.11.1 Criminality Information and Documents

ORR may request additional information that cannot be found in the National Crime Information Center (NCIC) criminal history or in the UAC's Form I-213 within the A-file. If the UAC has a criminal record, ORR may request copies of court documents, police reports, indictments, and documentation on gang affiliations and/or ties to cartels. DHS officers cannot provide copies of these reports without the consent of the originating agency (often this is the juvenile probation officer). DHS officers can contact the probation officer and request verbal consent, noting whom they spoke with and the date the consent was given, or provide the name and contact number for the probation officer for ORR to contact them directly. The UAC Initial Placement Referral Form includes a field to document the contact information for the juvenile probation officer.

If a UAC has a criminal or delinquent record or is coming from a State or local jail, record the I-213 with information regarding crimes committed, sentences served, as well as use of weapons or suspected gang affiliation (including gang-related tattoos). Provide ORR with any information regarding behavioral problems or disciplinary action prior to transfer to ICE custody. Provide this information as promptly as possible.

3.1.11.2 Medical Documents

ORR may request copies of medical documents, particularly in cases of contagious disease, pregnancy, or physical disability. These documents should be submitted to ORR along with the UAC Initial Placement Referral Form. Often the medical documentation (or medical transfer summary) is not available prior to the UAC's transfer to ICE custody; if not, please indicate such on the UAC Initial Placement Referral Form. Provide updates to ORR as needed if DHS officers learn the UAC has a medical condition after the placement request was already submitted.

Note: Do not send a copy of the I-213 or NCIC criminal history to ORR, as they are not authorized to receive law enforcement sensitive information.²⁶ Describe any issues and include necessary information on the UAC Initial Placement Referral Form and in the body of the email if necessary.

3.1.12 ERO Required Transportation Notifications

FOJCs are required to carry out the following notifications when coordinating and conducting transport of a UAC:

- Notify the component staging the UAC of the intended time of travel;
- Notify the FOJC of the designated ORR shelter location AOR that the shelter is receiving a UAC;
- Notify the designated ORR shelter of the UAC's estimated time of arrival at the shelter.

3.1.13 Transportation Request

After a UAC has been screened, or 48 hours have passed since the UAC was apprehended, CBP will request that ERO transport the UAC. ERO officers are instructed to only accept custody of a UAC for purposes of transportation to ORR designated shelters for placement. ERO will accept custody of the UAC from CBP **only after** the following conditions have been satisfied:

- UAC has been processed; charging documents have been issued and served; ORR shelter placement and bed space is confirmed.
- NTA has been reviewed for legal sufficiency, including confirmation that the certificate of service has been signed by the appropriate party.
 - The certificate of service can only be signed by UAC 14 years of age and older, and must be left blank for UAC 13 years of age and under.
 - For UAC under 14 years old, the NTA must be personally served on the "conservator." In most cases, the conservator will be the person in charge of the ORR facility in which the UAC is housed (or an ORR case manager). The FOJC is responsible for visiting the ORR facility to personally serve the conservator, ensuring that the conservator legibly signs the NTA and prints his or her name and title beneath the signature. This requirement will ensure that ICE can demonstrate proper service to the immigration court.
 - FOJCs should establish a local procedure for coordinating the transportation of UAC to the placement location. Some offices have local agreements with CBP and do not take custody of a UAC until time of transport. The coordinating field office is still responsible to provide all notifications (e.g., placement notification,

²⁶ James M. Chaparro, Sharing Information with the Department of Health and Human Services Office of Refugee Resettlement, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, November 30, 2010.

itineraries for flights, etc.). These notifications ensure that transporting officers are aware of the travel arrangements and help to avoid travel delays or cancellations.

3.1.14 Transport Documents

When traveling by bus or van, officers must complete Form G-391, Official Detail (“Trip Ticket”) or equivalent, recording the names of the escorting ERO officers or contract officers, type of transport vehicle, and mileage at the start and end of the trip. In addition to recording the time in custody for every juvenile on the manifest (I-216, Record of Persons and Property Transferred) in the ENFORCE Alien Booking Module (EABM), the transporting office must send the receiving FOJC a copy of the I-216, along with the estimated time of arrival.²⁷

3.1.15 Escort Requirements

The following requirements must be met during the transportation of UAC:

- Although the preferred practice is a minimum of two escorts for one UAC, if necessary and with supervisory approval, one escort of the same gender can escort one UAC;
- Two escorts may transport up to five UAC;
- Female UAC must be escorted by at least one female officer;
- Each additional group of five minors requires one additional escort;
- Instances in which both male and female minors are being transported will require an additional escorting officer of each gender;²⁸
- Additional escorts may be necessary when very young children are being transported as part of a group (e.g., an infant will require one officer). Toddlers and children in diapers will require additional assistance from escort staff—adjust escort to UAC ratios accordingly.

3.1.16 Requirements for Transfer of Custody to ORR

FOJCs must ensure that a custody-transfer packet is prepared and completed, prior to the UAC getting transported, and that the packet is given to the ORR shelter that is receiving the UAC.

The custody-transfer packet includes the following:

- I-862, Notice to Appear (or charging document);
- I-770, Notice of Rights and Request for Disposition for Minors;

²⁷ John P. Torres: “Update to the Detention and Deportation Officers Field Manual: Appendix 16-4, Part 2; Enforcement Standard Pertaining to the Escorting of Aliens”, January 31, 2008

²⁸ Update to the Detention and Deportation Officers Field Manual: Appendix 16-4, Part 2; Enforcement Standard Pertaining to the Escorting of Aliens, Department of Homeland Security, Immigration and Customs Enforcement, January 5, 2006.

- DIHS-794, In-Processing Health Screening Form;
- Medical paperwork (e.g., hospital records), if any;
- List of medications, if any;
- List of free legal service providers, if applicable; and
- Orantes advisals notification, if applicable.

Although it is standard operating procedure for ERO to deliver custody-transfer packets in the manner prescribed in this section, no ORR shelter can refuse to accept UAC because of limited or missing DHS-issued paperwork.²⁹

3.1.17 Medical Screening and Medications

UAC cannot travel without a recent medical summary (IHSC 795-A (adult) and IHSC 795-J (juvenile) Intake Screening or similar form). If a UAC comes into ERO custody without a medical summary and the local ICE Health Services Corps (IHSC) officers do not work with UAC, contact the IHSC Field Medical Coordinator (FMC) or Health Services Administrator (HSA) to coordinate with a local practitioner.

- When a UAC is encountered by ERO (or another agency) and is in possession of an unfilled prescription, IHSC or a medical provider must determine the validity of the prescription. If the medication is determined to be bona fide and properly prescribed, it must be filled prior to transport. ERO should contact IHSC to administer medication and/or monitor the UAC taking the medication, as directed by the prescribing medical authority.
- Prior to transporting any UAC from a holding facility, attach a list of all medications or prescriptions to the I-216 manifest. In addition, note any medications in the manifest comments section in EABM.³⁰

3.1.18 Money, Valuables, and Other Personal Property

At the beginning of, during, and upon completion of each transport, ERO officers are required to verify that all items listed on the manifest are accounted for. If a UAC claims missing funds, valuables, identity documents, or personal property, that UAC should remain in the staging/holding area while completing the required paperwork (SF-95 and I-387, or equivalent) to note what is missing. The transfer may proceed once copies of the completed forms are placed in the A-file and provided to the UAC. UAC should not have access to personal property while

²⁹ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § H, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.

³⁰ Field Guidance: Processing and Transportation of Unaccompanied Alien Children, Accompanied Minors, and Family Units, Juvenile and Family Residential Management Unit, December 2015.

in transit from a holding facility to another location. However, unless there are safety concerns, the following items may remain on person:

- Contact's phone number(s);
- Eyeglasses and/or contact lenses;
- Receipts for money and property (forms G-589 and I-77);
- Copies of charging documents and identity documents (e.g., I-200, I-286, I-862, I-770, list of legal services, birth certificates, and government IDs).

Note: Although custody of UAC is transferred to ORR, case management remains with ERO. Original documents may be needed to secure travel documents if UAC is ordered to be removed. A copy can be provided to ORR and the individual at the time of transfer.³¹

3.1.19 Driving Hours

With full consideration for officer safety and security, transporting officers will make a reasonable, but limited, number of rest stops, taking into account the ages of any minors being transported. Younger children may require more frequent restroom use, and these needs should be anticipated and accommodated. Before allowing those being transported to leave the vehicle during a rest stop, transporting officers will secure the area. After disembarking a transport vehicle, the transport officers will keep all minors under constant observation to prevent external contact(s) or contraband smuggling. If one or more individual remains inside or near the vehicle during a rest stop, at least one escorting officer must stay with the vehicle.

Prior to commencing a transport, escorting officers must be cognizant of travel times and ensure adherence to Section 3.1.9 “Meals and Snacks During Transport” regarding the availability and timing of meals and snacks during transport.

- UAC will not be transported by bus if the trip would normally exceed six hours, except under exigent circumstances. If the bus route is likely to exceed six hours, transportation by auto or van is required with frequent breaks as indicated above. When exigent circumstances occur and transportation by bus will exceed six hours, refer all requests for authorization to JFRMU. When transporting minors, follow all state laws and regulations regarding child restraints and car seats.
- When officers are transporting individuals of the opposite gender, transport staff is required to call in their time of departure and odometer reading to the originating field office’s transport supervisor. The transporting officers will provide the same trip details upon arrival at their destination. All trip logs including method of travel, dates, times,

³¹ Field Guidance: Processing and Transportation of Unaccompanied Alien Children, Accompanied Minors, and Family Units, Juvenile and Family Residential Management Unit, December 2015.

locations, and designated supervisory official are to be maintained in accordance with ICE record retention policies.³²

3.1.20 Use of Restraints

Officers will not transport anyone without considering the person's risk to ICE staff, the public, himself or herself, and the likelihood of escape. The use of restraints should be on a strict case-by-case basis and not as a general practice. As a rule, do not handcuff juveniles during transport unless there is evidence or a perceived threat of violent behavior, a history of criminal activity, or other reasons to believe the alien is an escape risk. Any child deemed not to pose a threat of harm or escape by an officer will not be restrained.³³

If it is necessary to restrain a juvenile, always consider size, age, gender, and comprehension level when considering the type of approved restraints to apply. Juveniles under 12 years of age will never be placed in full restraints. As a rule, full restraints should never be used on juveniles over the age of 12 unless they are actively presenting combative behavior and there is articulable evidence that suggests violent behavior is imminent, or very likely to occur, or the juvenile has a significant criminal history and/or a history of escape such that safety and security would be compromised. Treat all juveniles with courtesy and respect, but do not sacrifice or compromise security to do so. The use of restraints on a juvenile must be approved by a supervisor in all cases. The use of full restraints on a juvenile must be approved at the AFOD or Unit Chief level. Use of restraints on any juvenile must be fully documented with an after-action report. Juveniles who are pregnant will never be placed in restraints, unless deemed to pose a threat of harm or escape.

3.1.20.1 Use of Restraints while Transferring Minors on ICE Air Flights

Except in exigent circumstances, juveniles being transported by IAO flights [REDACTED]

If a Flight Officer in Charge (FOIC) determines it necessary to restrain an entire group of minors on an ICE Air Operations (IAO) flight, that decision must be approved at/or above the Unit Chief level and an After-Action Report must be completed. The same process must be followed when any juvenile under the age of 12 is restrained in any manner.³⁴

³² Field Guidance: Processing and Transportation of Unaccompanied Alien Children, Accompanied Minors, and Family Units, Juvenile and Family Residential Management Unit, December 2015.

³³ Use of Restraints, Policy ERO 11155.1, Department of Homeland Security, Immigration and Customs Enforcement, November 19, 2012.

³⁴ Broadcast: Interim Guidance Regarding the Use of Restraints while Transferring Minors on ICE Air Flights.

3.1.21 Contractor-Led Transport

JFRMU now operates a UAC and Family Group transportation initiative to support ERO field offices in moving these populations to ORR shelters or ICE family residential centers within the interior of the United States. JFRMU's contractor coordinates directly with CBP and HHS for operational arrangements and estimated time of arrival notices. To meet the statutorily mandated 72-hours transfer requirement, JFRMU's vendor tracks movements beginning with the arresting agency's time of apprehension. Operations are currently headquartered in McAllen, Texas, with sub-offices in San Antonio, Texas; and Phoenix, Arizona.

Once travel arrangements are finalized, the vendor will ask the apprehending agency to meet their staff at the airport for a commercial flight. The vendor will forward all UAC placement information to the appropriate FOJC.

To request assistance through this initiative, please contact JFRMU at [REDACTED]

3.1.22 Emergency Situations

ICE officers should refer to procedures established in PBNDS 2011 and the Family Residential Standards regarding escapes/attempted escapes, hostage-taking, illness, death, fire, riots, traffic accidents, special needs, and other medical issues (e.g., emergency plans, terminal illness, advance directives, and death).³⁵

3.2 Case Management

Although UAC are placed in the care and custody of ORR, ERO retains responsibility for immigration case management. Proper case management includes such activities as monitoring the status of immigration proceedings, and documenting case updates in the A-file. Once a UAC is transferred to ORR custody, his or her case is to be maintained on a separate juvenile docket until such time as ORR releases him or her to a sponsor. At that time, the case may be transferred to a non-detained docket. The case should be managed on a separate juvenile non-detained docket.

3.2.1 Book-In Procedures

FOJCs, or assigned officers, must immediately book each UAC into the ENFORCE Alien Detention Module (EADM) upon that UAC's transfer into ERO custody (including the custody of ICE transportation contractors). In the event that operational logistics prevent immediate EADM book-in, no more than four hours may elapse without recording the time in ERO custody. All UAC book-ins must record the actual day and time in custody to account for a proper

³⁵ Field Guidance: Processing and Transportation of Unaccompanied Alien Children, Accompanied Minors, and Family Units, Juvenile and Family Residential Management Unit, December 2015.

detention record. FOJCs, or assigned officers, must also ensure that the “transfer to Docket Control Office (DCO) is changed to the location where the UAC is being transferred and that the “book-out comments” indicate the exact location of the transfer. Transferring FOJCs must notify the receiving FOJC via email of the transfer, to avoid “hanging transfers” in the EADM system.³⁶

Note: Reference Enforce Alien Detention Module (EADM) Section 6 on page 17.

3.2.2 Book-Out Procedures

Upon receiving notification from ORR that a UAC will be released to a sponsor:

- Verify the validity of the address [REDACTED] by using the USPS webpage at: [REDACTED]. If the address is not valid, have ORR verify information provided on the Final Discharge Notice and submit a corrected address.
- In EARM, under the “Supporting Information” tab, select “Addresses”, then review the address listing. If the appropriate address isn’t listed, select “Add Address Type,” then select “Temporary Residence” from the drop down tab, and enter the start date as the current date and the complete address. Click Submit.
- After the record has been updated, verify that all other biographical information is correct, including the individual’s “Person Details”—name and date of birth. Update case comments to reflect current case information. Then proceed to EADM to book subject out on an “Order of Recognizance” (OREC).
- Select EADM, “book out to OREC” and choose the previously entered address from the drop down box as the “released-to” field and submit.³⁷

3.2.3 Alien File Process

A-files will remain with the FOJC located in the AOR of the child’s first ORR designation. The FOJC will retain docket control over each A-file regardless of any subsequent transfer of the UAC to a second AOR, or until one of the following occurs:

- UAC makes a request for an expedited immigration court hearing;
- UAC is released to a sponsor; or
- UAC is in ORR custody for 60 days.³⁸

³⁶ Broadcast: Unaccompanied Alien Children (UAC) Book-ins, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, July 23, 2015.

³⁷ Broadcast: UAC Shelter Book Out Procedures, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, March 21, 2015.

³⁸ “Unaccompanied Alien Children (UAC) A-File Process”

<https://insight.ice.dhs.gov/ero/custody/Documents/jfrmu/pdf/JFRMU%20UAC%20A-file%20process%208-18-2015.pdf>

Once one of the above conditions is met, the A-file must be sent via next day air to the appropriate AOR of the child's release or where the child currently resides.

Different procedures are applied to UAC under the age of 14 who are transferred to a new ORR facility. In these cases, the A-file should be sent to the new AOR FOJC within 10 days of the ORR transfer, regardless if transfer occurs prior to the 60 day mark.³⁹

UAC A-files will be maintained and transferred in accordance with the most recent ERO-approved UAC A-file Process, available on the JFRMU intranet site.

3.2.4 Reviewing Charging Documents

UAC not allowed to withdraw an application for admission into the United States will be placed in § 240 proceedings. (For limited exceptions, refer to the TVPRA.) When accepting custody of a UAC from an outside agency, verify A-file(s) for issued and served charging documents. Form I-213 should be contained in the A-file for proper processing, and should include:

- Alienage and removability (including notation of documents, if any, provided by UAC to establish alienage, i.e. birth certificate, passport):
 - Country of birth;
 - Country of citizenship;
 - Date of entry;
 - Port of entry; and
 - Manner of entry.
- Signature of issuing officer;
- Designation as UAC;
- Notation of other family members and their A-numbers (i.e. UAC traveling with their own children, UAC siblings);
- Location of immediate family with contact information (if possible);
- Location of intended parties or destination in the United States;
- Length of time in transit to the United States;
- Financial support or monies on person;
- Medical issues (e.g., medications, pregnancy, medically issued items [walker, shoes, prescribed glasses]);
- Mental health (e.g., medications, behavioral, monitoring requirements);
- Notation of special needs (e.g., dialect, language barrier, age, vulnerabilities);
- Notation if family contact was made and duration of the call;
- Notation if consulate/attorney contact was made and duration of the call;

³⁹ Service of the Notice to Appear (NTA) on Unaccompanied Alien Children (UAC), August 22, 2016.

- Consulate contact required for mandatory notification countries; for all other cases, consulate notification is available upon request and local agreement.

While interviewing a UAC received from another Federal agency or DHS component, and encountering new information that is necessary to include in Form I-213, add to the bottom of the current Form I-213 as an addendum/addition in order to maintain the integrity of the initial encounter record. Do not remove or change the other component's narrative.

The I-862 NTA should also be contained in the A-file for proper processing. Verify the following:

- Name and alias(es) are included on NTA;
- A-number is accurate and comports with number listed elsewhere in/on A-file;
- The UAC's address corresponds with the placement location:
 - File an I-830 (Notice to EOIR: Alien Address) to correct the address if this is the only error;
 - If local EOIR does not accept an I-830 with initial filing, an NTA may have to be superseded by ERO to place correct address;
- Certificate of Service is signed by UAC (older than 14 years of age):
 - If younger than 14 years, NTA should read: "Served on conservator";
 - It may be necessary to serve the NTA on the conservator for UAC older than 14 years of age if his or her comprehension level is insufficient or the child is developmentally delayed;
- Allegations should concur with the local OCC legal sufficiency.

The A-file also requires the following additional documentation:

- I-770 Notice of Rights and Request for Disposition (this form is in lieu of an I-826 Notice of Rights issued to adults);
- I-200 Warrant of Arrest;
- I-286 Notification to Alien of Custody/Conditions of Release;
- I-217 Information for Travel Document (other than Mexican (OTM) cases);
- List of Legal Services;
- Form CBP-93--UAC Screening Addendum, if applicable;
- Orantes advisals notification, if applicable.

If the UAC is apprehended at the POE:

- Depending on the ERO field office location and local agreements with CBP/OFO, encounters with UAC may vary. Local arrangements may include UAC taken directly to ORR placement from CBP, therefore A-file verification may be challenging.

The NTA packet should have two copies with the original signed documents in the A-file. The A-file should be created by USCIS (Records Dept.), if available, in the local field office. Ensure the following steps are taken:

- Assign the UAC to the appropriate juvenile docket;
- Ensure each UAC is booked into the correct “detention” location;
- Ensure your DCO has a “DET LOC” (drop down for all of your ORR facilities);
- Update all Actions and Decisions, as well as Case Category;
 - Charging documents filed with EOIR;
 - Change of Venues (COV) (I-830 if necessary);
- Final Orders: Voluntary Departure/Removal/Proceedings Terminated;
- Call-Ups;
 - Status of case: Hearing Pending/COV Pending/Pending Travel Documents (TD);
 - All relevant information for anyone reviewing the case;
- Comments;
 - Identify juvenile at an adult detention facility;
 - Age out/ adult verification from ORR;
 - Attorney/family contacted ERO;
 - Release to sponsor—name and address;
 - Escape/AWOL details: provide Police Department (PD) contact info;
 - Any additional information that will aid future review;
- Ensure proper Book-in and Book-out;
 - “Release/Transfer”;
 - “Final Order”;
 - “Final Orders: VD/Removal/Proceedings Terminated.”

Note: Once an AOR no longer needs an A-file, the A-file should be transferred to the receiving office; other DCO, Records, NRC, or USCIS. Follow the local best practices.

3.2.5 Docket Management

It is important that FOJCs conduct proper Docket Management, as seen in the Table 1 below.

Table 1. Responsibilities of Proper Docket Management			
Coordinate	Verify	Respond	Complete
<ul style="list-style-type: none"> • With FOJCs at receiving AORs when receiving and/or sending A-files. • With ORR facilities during custody transfers of UAC. • ORR shelter site visits with ORR program managers, as needed. • With consulates for travel documents and repatriation efforts. 	<ul style="list-style-type: none"> • All UAC in ORR shelters in the AOR are properly booked-in and out of EADM. • All required documents and case actions are complete in A-file. 	<ul style="list-style-type: none"> • To inquiries from the consulates in regard to UAC. • To parents', legal guardians', or legal representatives' inquiries regarding UAC. • To requests from case workers, program managers, or ORR staff. 	<ul style="list-style-type: none"> • And create case call-ups for all required actions (e.g., hearing updates, travel documents, age outs). • Forwarding of all A-files for transferred UAC to the receiving FOJC immediately by express mail. • Maintenance of case management of juveniles in EARM and if necessary, transfer the case to a detained or non-detained docket. • Custody redetermination and case review when necessary.

3.3 Age-Outs

3.3.1 ICE Custody

The Violence Against Women Reauthorization Act of 2013 directs that UAC aging out of ORR custody on their 18th birthday (“age out”) be placed in the least restrictive setting available, taking into account the UAC’s danger to self, danger to community, and risk of flight.⁴⁰

- The FOD may consider releasing the age-out to an organizational sponsor, a supervised group home, or foster care.

To ensure compliance with VAWA, JFRMU will begin tracking the custodial disposition of UAC in ORR care who reach their 18th birthday of ORR care and are referred back to ICE for custody determinations as adults. Each field office must report these data to JFRMU on a monthly basis.

⁴⁰ The Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4 § 1261, Subtitle D Unaccompanied Alien Children, § 1261, March 7, 2013.

The recent reauthorization of VAWA, specifically § 1261, includes language pertaining to minors who reach the age of 18 while in the custody of ORR. This language requires ICE consider least restrictive settings when making custody determinations of this group. Determinations should be made considering the circumstances of each individual case. This unique population of aliens may also be eligible to participate in the ATD programs based on the alien's need for supervision.

For minors in ICE custody who have not yet been turned over to the custody of ORR when an "age out" occurs, the FOJC has several options with regard to custodial placement.

- The alien (now adult) can be transferred to adult ICE detention, depending on whether the individual's continued detention meets the current agency enforcement and detention guidelines.
- Because a change in circumstances occurs, ICE can make a custody redetermination in the alien's case, and release under an order of recognizance, release under ATD, or release upon the payment of a custody bond.
- The subject may be reprocessed (as long as they are not yet in removal proceedings) for expedited removal, voluntary return, or stipulated order of removal, and removed from the United States, under advise of local OCC, supervisory officers, and the request of the alien.

3.3.2 Post-18 Plans

The ORR facility case workers will attempt to seek reunification with a sponsor residing in the United States. At times ORR is unable to complete the process prior to the UAC reaching his or her 18th birthday. Although the juvenile will no longer qualify to remain with ORR when they turn 18 years of age, the case workers may continue to identify potential organizations to care for him or her in the event they are eligible for release from ICE custody. ORR is required notify the FOJC when there is an age-out so the alien can return to ERO for custody determination. As a best practice a post-18 plan, also known as a recommendation of release, is submitted by the case worker or Federal Field Specialist (FFS) to the FOJC.

A post-18 plan will be submitted to the FOJC at least two weeks prior to the UAC reaching his or her 18th birthday in order to give time to review the plan and determine custody. The following entities may provide a statement for recommendation of release:

- Letter from ORR shelter staff (case worker or program manager);
- ORR Federal Facility Specialist;
- Attorney of Record;
- Sponsor/Organization.

The documents collectively will provide a summary of cooperation while in ORR care, and the commitment to appear at all immigration proceedings and abide by all local, state, and federal laws while on release.

When reviewing these documents, consider the VAWA as it reads:

If a juvenile reaches their 18 years of age while in HHS/ORR custody and is transferred back to the custody of the ICE/ERO, the Secretary shall consider placement in the least restrictive setting available after taking into account the alien's danger to self, danger to the community, and the risk of flight. Such aliens shall be eligible to participate in alternatives to detention programs, utilizing a continuum of alternatives based on the alien's need for supervision, which may include placement of the alien with an individual or an organizational sponsor, or in a supervised group home.

Based on the totality of all the information and in order to make all appropriate notifications (e.g., OCC, EOIR) in a timely manner, a custody determination should be made prior to transfer back to ICE custody.

3.4 Removals and Returns

In accordance with the TVPRA, repatriation will be effected at no cost to the child. Associated costs will be borne by ERO, which will coordinate and arrange all travel plans with the UAC, consulate, ORR shelter (if any), UAC's sponsor, and family in home country.

ERO is obligated to provide a safe and supervised return of UAC. When an IJ issues a final order of removal or grants voluntary departure, follow standard removal procedures.

ERO's priority is to preserve family unity during repatriation. To best preserve family unity while protecting children:

- Verify kinship with the consulate to safeguard minors from smugglers or other threats before repatriation;
- Coordinate with each consulate to verify citizenship before transporting a family to the country of origin;
- Prior to transporting a UAC or family unit to the land border, verify with the local FOJC the established hours of operation for receiving UAC or family units. Minors and females have special limitations on when (time of day) they are able to cross from the United States.

Minors must be repatriated under additional safeguards, including:

- Allowing the UAC to communicate with a consular official before departure;
- Upon arrival at the destination, the receiving official acknowledging the custody transfer by signing the I-216;
- Forwarding the signed I-216 to the originating FOJC to update their records;

- Per ERO policy, returning each UAC in the appropriate outerwear for the current climate conditions.⁴¹

Most UAC repatriations occur via commercial air, with [REDACTED] assigned to one UAC and [REDACTED] for subsequent groups of five or more. When the transport includes both males and female UAC, the escort must include officers of each gender whenever possible.

In some cases, the receiving country of nationality or citizenship may request to escort the UAC on a return flight. These types of escorts may be granted on a case-by-case basis.

- For repatriation requirements specific to Mexico, including the daylight hours during which custody transfers may occur, see your “Local Arrangement for Repatriation of Mexican Nationals or Memorandum of Understanding” and the *ICE Air Operations Handbook*.⁴²
- Consult with Removal and International Operations for guidance on repatriations to El Salvador, Honduras, or Guatemala.

Note: ICE will incur all travel expenses for UAC, regardless of the type of order issued by an IJ.

Current policies regarding repatriation are outlined in the TVPRA, “Local Repatriation Agreements”, and the “April 2008 Repatriation and Custody Transfer of UAC in ICE to Foreign Officials Policy”. The following list of established requirements is derived from ERO policies:

- Return the UAC only during daylight hours (local agreements are in effect for each receiving government authority);
- Return the UAC through a port designated for repatriation; and
- Provide the UAC the opportunity to communicate with a consular official prior to departure for the home country, preserving the unity of families during removal.

All escorting officers removing UAC to a country of origin are required to have the receiving government official or designee sign Form I-216, indicating the safe transfer of custody for all UAC listed. Once the appropriate foreign government official or designee signs the form, the I-216 will serve to document the safe repatriation and transfer to a government authority for all

⁴¹ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § F, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.

⁴² Field Guidance: Processing and Transportation of Unaccompanied Alien Children, Accompanied Minors, and Family Units, Juvenile and Family Residential Management Unit, December 2015.

UAC listed. A copy of this form will be placed in the UAC's A-files after the officer/agent returns to their field office or forwarded to the A-file controlling office.

Should the foreign government official or designee refuse to sign Form I-216, the officer/agent will document the official's name (if known), date, time, and port, and will note the refusal. A copy of this form will be placed in the UAC's A-files after the officer/agent returns to their field office, or forward it to office controlling the A-file.⁴³

When a UAC has been issued a Voluntary Departure or Removal Order, the coordination of repatriation will begin with updating the case category. For each type of repatriation, steps are outlined below.

Consulate Travel Document Request:

- Submit via eTD;
- ORR can facilitate the interview;
 - Notify ERO when travel document can be picked up.

Note: Follow local best practices for obtaining travel documents.

Local Repatriation:

- Consulate notification;
- Transportation Arrangements;
- Repatriation must take place within regular business hours;
- Place copy of I-216 in A-file.

International Repatriation:

- Request escorting officer;
 - Ensure at least one officer is the same gender.
- Coordinate with Omega for itinerary;
- Submit Threat Assessment to HQ Travel Unit (submit assessment 10 business days prior to the transport);
 - Risk assessment;
 - Flight itinerary;
 - Threat assessment;
- HQ Removal Unit will provide the country clearance notification;
- Coordinate with consulate and/or legal representative so family in home country can be contacted;

⁴³ Repatriation and Custody Transfer of UAC in ICE Custody to Foreign Government Officials, Policy 11049.1, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, April 17, 2008.

- Have a consular/government official sign for juvenile and upon return, place copy of I-216 in A-file.

ICE Air Charter flights:

- Check for charter flights going to the country to which the UAC has been ordered removed. Consult the Travel Document Unit for any needed assistance. There is a local unit within each AOR responsible for coordinating ICE Air Charter flights.

Prior to executing a removal order, ERO will coordinate fully with the appropriate agencies, foreign officials, and attachés (if applicable).

Refer to the Field Manual: *Enforcement Standard Pertaining to Escorting of Aliens* and the *ICE Air Operations Handbook* for further inquiry on escorts. As each field office differs on best practices, follow the respective local process as well.

Note: It is important to maintain positive liaison with the consulates in your AOR because they also work with your ORR facilities in verifying their respective nationals, conducting interviews, and at times they may even provide further assistance when repatriation notification has been given.

3.5 Specific Case Scenarios

3.5.1 Law Enforcement Agency Referrals

On occasion, a local law enforcement agency (LEA) may contact a FOJC to request that a detainer be placed on a juvenile in its custody.

Runaways: If the juvenile is a runaway from an ORR facility, the FOJC should alert ORR Intakes to designate a new secured facility placement, if the subject still meets the definition of a UAC. The FOJC will need to coordinate with the transportation unit to have the UAC transferred to ORR custody.

Minors with Criminality: If the referral is from an officer at a juvenile detention facility, the FOJC should refer the case to the Criminal Alien Program Unit so they can conduct an interview and place a detainer, if necessary.

Non-Arrested Minors: If the FOJC is contacted by a LEO to pick up a juvenile who was encountered in the field and is believed to be a foreign national, but not formally charged with any crime, the FOJC should check to see if the juvenile is removable from the United States. If the juvenile is removable from the United States, even in the absence of a criminal charge, ICE can take custody of the juvenile and refer to ORR if the minor is a UAC for placement housing. If the minor is not a UAC, the matter can be referred to JFRMU to find placement if the case meets the criteria laid out in the *Flores Settlement* agreement. If the juvenile is not deemed

removable, refer the LEO to the consulate representative who can best assist with contacting family for reunification or locating an NGO as a potential sponsor. If these options cannot be pursued, refer the juvenile to the local Child Protective Services office so they can take custody of the juvenile.

3.5.2 Interior ERO Apprehensions

In some cases minors are apprehended within the United States interior through enforcement actions on the part of ICE or by other federal, state, or local agencies. During enforcement actions, once immigration status is determined, FOJCs will be responsible for ensuring bed space is requested within established protocols for both UAC and accompanied minors. Depending on the arresting agency, ICE will make sure the minor is processed and transported to the appropriate placement, if necessary once space has been designated.

Fugitive Operations teams must notify the appropriate FOJC when preparing for a potential minor apprehension. During such apprehensions, the FOJC must:

- Determine whether the juvenile is accompanied⁴⁴ or unaccompanied;
- Seek contact information for a parent or guardian (if not present at the juvenile's apprehension);
- Provide the family with contact information so the family can contact the FOJC regarding the juvenile's immigration and detention status;
- Obtain any medications currently prescribed to the juvenile and ensure any medical concerns expressed by the juvenile are addressed appropriately.

Fugitive Operations teams are responsible for fully processing and serving all charging documents. Both the FOJC and ERO officers are responsible for ensuring the juvenile is processed in accordance with TVPRA and/or *Flores* guidelines. If the juvenile is determined to be a UAC, the FOJC must contact ORR to request shelter placement.⁴⁵

Note: The field operations worksheet must be approved by a supervisor in concurrence with enforcement priorities.

3.5.3 UAC with Convictions

All minors who meet the UAC criteria are to be referred to ORR for placement.⁴⁶

⁴⁴ Field Offices must receive JFRMU approval before taking an accompanied juvenile into custody as required by *Flores*.

⁴⁵ Enforcement and Removal Operations: Fugitive Operations Handbook, July 23, 2014.

⁴⁶ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § A-D, Department of Homeland

When referring a UAC with a conviction for ORR placement:

- Include the UAC's criminal history on the ORR Placement Referral Form. Include all arrests and convictions, delinquency findings, including charges that were dismissed and arrests without a disposition.
- Provide relevant agency (e.g., probation office) point of contact information with ORR to enable ORR to follow up when necessary.

Note: ORR may request additional information that cannot be found in the NCIC criminal history. If this happens, respond to ORR to assist in placing UAC in the appropriate facility placement type.

3.5.4 Sponsorship Breakdown after ORR Release

Sometimes sponsorship breaks down once ORR releases a child from its care. ERO may be made aware of these situations by the sponsor themselves, the UAC, local law enforcement, and/or local child protection agencies. When ERO becomes aware of a case involving a sponsorship breakdown, immediately contact ORR for assistance. ORR may require a new referral (submitted through their Portal) from a federal agency prior to again taking custody of the UAC. In some instances, particularly when a child's safety may be at risk, the local ERO office may, at the discretion of the FOD, assist and re-refer the child to ORR care. With FOD approval, the FOJC may arrange for the UAC to be transported from their current location to a newly designated ORR shelter.

Should sufficient resources not be available to assist, or when the child's safety is not in imminent danger, the FOJC may:

- Recommend that the sponsor refer the UAC to local CPS;
- Contact the respective consulate to identify an NGO willing to sponsor the UAC;
- Recommend that the sponsor contact local authorities if the sponsor thinks they or the UAC are in danger;
- Advise the current sponsor to notify the court of the change so that the IJ is aware of the situation;
- Notify the OCC trial attorney of the sponsorship breakdown prior to the next EOIR hearing; and
- Note the issue in the EARM comments section for future reference.

When the FOJC becomes aware that a child's safety is at risk and ICE declines to intervene directly as described above, the FOJC must contact local child welfare authorities and/or local law enforcement authorities.

3.5.5 Non-UAC Minors with Status

A legal permanent resident (LPR) juvenile may not be taken into ICE custody unless they have been convicted of a crime as an adult that makes them removable from the United States. If an LPR juvenile has been convicted of crime as an adult that makes him or her removable, he or she may be housed at a JFRMU-inspected and -approved juvenile facility. To house an LPR juvenile who has been deemed removable from the United States at an approved facility, the FOD and JFRMU must review and approve the case.

Note: If a juvenile has *any* legal status in the United States, he or she is not considered a UAC.⁴⁷

3.5.6 Accompanied Minors Who Are Delinquent or Are Chargeable As Delinquent

The *Flores* Agreement sets specific rules regarding the detention of accompanied minors. The criteria for secure custody are listed under paragraph 21 of the *Flores* Agreement:

A minor may be held in or transferred to a suitable State or county juvenile detention facility or a secure INS detention facility, or INS-contracted facility, having separate accommodations for minors, whenever the District Director or Chief Patrol Agent determines that the minor:

A. 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; provided, however, that this provision shall not apply to any minor whose offense(s) fall(s) within either of the following categories:

- i. Isolated offenses that (1) were not within a pattern or practice of criminal activity and (2) did not involve violence against a person or the use or carrying of a weapon (Examples: breaking and entering, vandalism, DUI, etc. This list is not exhaustive.);*
- ii. Petty offenses, which are not considered grounds for stricter means of detention in any case (Examples: shoplifting, joy riding, disturbing the peace, etc. This list is not exhaustive.);*

As used in this paragraph, "chargeable" means that the INS has probable cause to believe that the individual has committed a specified offense;

B. has committed, or has made credible threats to commit, a violent or malicious act (whether directed at himself/herself or others) while in INS legal custody or while in the presence of an INS officer;

⁴⁷ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § A, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.

C. has engaged, while in a licensed program, 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 (Examples: drug or alcohol abuse, stealing, fighting, intimidation of others, etc. This list is not exhaustive.);

D. is an escape-risk; or

E. must be held in a secure facility for his or her own safety, such as when the INS has reason to believe that a smuggler would abduct or coerce a particular minor to secure payment of smuggling fees.

In addition to those items listed in Section 2.1 “The Flores Agreement”, Flores advisals and Notice of Right to Judicial Review are required (*See Flores v. Lynch*, No. 15-56434, 828 F.3d 898 (9th Cir. Jul. 6, 2016)).

In all instances when ICE seeks to detain an accompanied minor under this provision, JFRMU guidance/concurrence is required.

Note: When authorized, and upon the minors placement in an ICE-approved over-72 hour facility, the FOJC retains case management responsibilities for that minor. In addition to A-file management responsibilities (See Section 3.2.4 “Reviewing Charging Documents”) the FOJC must conduct regular and ongoing site visits of the facility to meet with the detained minor. These visits should occur no less than monthly but may be more frequent based on the specifics of each case. The FOJC should be available to answer any questions or concerns the minor might have and should ensure the minor has received a list of free or low-cost legal services and other locally available legal-orientation materials. The FOJC should engage with program staff to obtain information regarding the minor’s conditions of detention and acclimation to the Center which include but are not limited to the minor’s educational progress and information obtained through facility administered needs assessments and other screenings. The FOJC will update EARM case comments with relevant information as appropriate.

3.5.7 Non-UAC Minors and Notice of Rights to Bond Redetermination

A non-UAC in removal proceedings will be afforded a bond hearing before an IJ. The juvenile can indicate on the Notice of Custody Determination that he or she refuses the hearing. The juvenile has the right to change his or her mind after issuance to seek a bond.

3.5.8 Emancipated Minors

Juvenile emancipation is a legal mechanism by which a juvenile is freed from parental or guardian control. In many instances, emancipated minors are considered adults in the eyes of the

law but this varies from state-to-state. For immigration purposes, ICE should consider all individuals under the age of 18 as a juvenile for custody purposes.

There are no exceptions to the statutory definition of UAC for emancipated minors under age. If a juvenile qualifies as a UAC under the definition of a UAC, ORR is responsible for the care and custody of the UAC and the emancipated juvenile UAC should be treated as a UAC and transferred to ORR within 72 hours.

3.5.9 Married UAC

A juvenile can be married and therefore emancipated before turning 18. In this situation, the married juvenile UAC should be treated as a UAC for care and custody purposes because they still meet the statutory definition.

There are no exceptions for married minors under the UAC definition. If a juvenile qualifies as a UAC under the definition of a UAC, ORR is responsible for the care and custody of the UAC and the emancipated juvenile (UAC) should be treated as a UAC and transferred to ORR within 72 hours.

3.5.10 ORR Runaway Cases

If a UAC becomes a runaway and departs from an area without authorization, the agency with custody will immediately notify local law enforcement agencies. ICE will prepare and complete a Serious Incident Report (SIR) in all cases of UAC escapes, even when those escapes occur while in ORR care.

FOJCs must request an incident report number from a JFRMU National Juvenile Coordinator immediately upon learning of an ORR runaway. Within 24 hours of receiving ORR's formal SIR, the FOJC must return the ORR Runaway Worksheet and the ORR-generated SIR to the JFRMU mailbox at: [REDACTED] The worksheet is available on the JFRMU Intranet site, subtopic "Guidance Documents".

- Each SIR must contain the A-number, height, weight, type of clothing, and direction of flight (if known);
- The FOJC will notify JFRMU and obtain an incident report number and complete the ORR Runaway Worksheet;
- The reporting FOJC will forward the completed Runaway Worksheet to JFRMU for tracking and statistical reporting;
- If a runaway is encountered by the local LEA, or self-surrenders to ORR, it will be a decision by ORR to determine the appropriate housing;

- If a UAC has a pending case with EOIR, OCC must be notified of all custody status changes for the UAC.⁴⁸

The FOJC will provide the SIR to OCC to file at the next hearing date if the UAC fails to appear so that OCC can request a hearing in absentia.

When notified of an ORR runaway, the FOJC will choose “ORR Runaway” from the drop-down menu of release-reasons. The release-reason “Escaped” applies only in the rare case of a UAC absconding before ERO has transferred custody to ORR.⁴⁹

3.5.11 Deferred Action for Childhood Arrivals

All of the following criteria should be satisfied before an individual is considered for an exercise of prosecutorial discretion pursuant to “Deferred Action for Childhood Arrivals (DACA)”:

- Entered the United States under the age of 16;
- Has continuously resided in the United States for at least five years preceding June 15, 2012, and was present in the United States on June 15, 2012;
- Is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- Has not been convicted of: a felony offense; a significant misdemeanor offense; multiple misdemeanor offenses; or otherwise poses a threat to national security or public safety; and
- Was not over the age of 30 as of June 15, 2012.

Note: See “ERO Deferred Action for Childhood Arrivals Checklist” for guidance arresting/removing individuals under the age of 31 as of June 15, 2012.⁵⁰

3.5.12 Juvenile Detainers under Secure Communities

Executive Order 13768, “Enhancing Public Safety in the Interior of the United States” (January 25, 2017), together with a memorandum issued February 20, 2017 by DHS Secretary Kelly entitled “Enforcement of the Immigration Laws to Serve the National Interest”, expressly terminated the Priority Enforcement Program (PEP) and restored Secure Communities.

⁴⁸ Field Guidance: Processing and Transportation of Unaccompanied Alien Children, Accompanied Minors, and Family Units, Juvenile and Family Residential Management Unit, December 2015.

⁴⁹ Broadcast: Tracking ORR Runaway Cases, Department of Homeland Security, Immigration and Customs Enforcement.

⁵⁰ Deferred Action for Childhood Arrivals Checklist, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, August 8, 2013.

Under Secure Communities, ICE will seek the transfer of all removable aliens identified through the program, and will do so consistent with the priorities set forth in the Executive Order. Per Policy, ICE no longer limits the issuance of detainers to cases in which a removable alien falls within limited criminal or related categories. As made clear in the Executive Order, ICE will no longer exempt classes or categories of removable aliens from potential enforcement. Regardless of the basis of removability, Department personnel should prioritize removable aliens who: (1) have been convicted of any criminal offense; (2) have been charged with any criminal offense that has not been resolved; (3) have committed acts which constitute a chargeable criminal offense; (4) have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency; (5) have abused any program related to receipt of public benefits; (6) are subject to a final order of removal but have not complied with their legal obligation to depart the United States; or (7) in the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Under Secure Communities, DHS will use Form I-247A- Immigration Detainer –Notice of Action. Pursuant to ICE Policy No. 10074.2: “Issuance of Immigration Detainers by ICE Immigration Officers”, which became effective April 2, 2017, all detainers issued to removable aliens must be accompanied by: (1) Form I-200, Warrant for Arrest of Alien, signed by an authorized immigration officer; or (2) Form I-205, Warrant of Removal, signed by an authorized immigration officer.

Also effective April 2, 2017, DHS will no longer use Forms I-247D, I-247N, and I-247X.

Unaccompanied minors who fall within DHS enforcement priorities still must be transferred to ORR for care and custody. Seek JFRMU assistance in all cases.

3.5.13 Special Immigrant Juvenile Status

Special Immigrant Juvenile Status (SIJS) is one of the most common forms of legal relief available to UAC for legal permanent residence. UAC who have been abused, neglected, or abandoned by one or both parents may be eligible to apply for SIJS.

Previously, under the Homeland Security Act, minors seeking SIJS were required to obtain “specific consent” from ICE before related proceedings could begin. Under TVPRA 2008, SIJS-specific consent authority was transferred to ORR. These children cannot be reunited with a parent because of abuse, abandonment, neglect, or similar issues and the children cannot petition for green cards for their parents. Approval of an SIJS petition allows foreign national children to seek a green card once their priority date is current and there is a visa number available.⁵¹

⁵¹ As of the July 2016 Department of State Visa Bulletin, there are still no visa numbers available for children from El Salvador, Guatemala, Honduras, and Mexico who didn’t file their Form I-360 with USCIS prior to January 1, 2010. <https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2016/visa-bulletin-for-july-2016.html>.

Children who obtain LPR status may then petition for U.S. citizenship and eventually petition for a green card for their siblings. States must:

- Certify the child a ward of the state due to abuse, neglect, or abandonment; and
- Determine it is not in the child's best interest to return to their home country.

Note: While the TVPRA defines a UAC as under the age of 18, individuals under the age of 21 may apply for SIJS status and adjustment of status based on the approved SIJS.

FOJC Engagement with ERO Partners

4 FOJC Engagement with ERO Partners

JFRMU coordinates with CBP, ORR, and NGOs. Internally, JFRMU trains, monitors, and advises FOJCs, who serve as their field offices' subject-matter experts on juvenile and family matters. JFRMU develops trainings for FOJCs and issues national guidance on appropriate case management for children and families in ICE custody; and FOJCs in turn advise their field office colleagues in these matters. To be successful at their job, FOJCs must be proactive in developing effective working relationships with a number of parties to include the following:

4.1 ORR Intakes Staff

ORR Intakes comprises HHS personnel who provide placement designation for UAC who will be transferred to ORR custody. The ORR Intakes staff is located at ORR Headquarters. Communication with the Intakes staff can be completed primarily via the UAC Portal. If the UAC Portal is not available, direct correspondence to [REDACTED] or contact via phone at [REDACTED]. Intakes staff will provide placement between the hours of 9:00 a.m. and 9:00 p.m. EST. After-hour placements are provided in emergency or tender-age situations.

ORR Intakes staff receives many placement requests each day from all over the nation. FOJCs must allow them adequate time to complete the placement request, but may initiate a follow-up call if circumstances require an urgent response.

4.2 Local ORR Case Workers

Once in ORR custody, each UAC is assigned a case worker who attempts to reunify the UAC with family in the United States (and in home country). FOJCs are reminded to maintain an ongoing and professional relationship with local case workers, particularly because FOJCs may need to contact them for case management purposes. Additionally, case workers may reach out to FOJCs in their AOR for general information regarding UAC in their care.

FOJCs may disclose all relevant information contained in EARM that may assist the case worker in conducting reunification, making bed space designations, and providing special care to the juvenile if needed.⁵² Local case workers may inquire about what happens to a UAC when custody is transferred back to ICE custody and it is appropriate for the FOJC to explain local procedures and what is involved with the transfer.

⁵² James M. Chaparro, Sharing Information with the Department of Health and Human Services Office of Refugee Resettlement, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, November 30, 2010.

4.3 Federal Field Specialists

A FFS is the ORR representative assigned to oversee all shelters within a specific region. The FFS will approve all referrals and discharges that require ICE coordination. The FOJC should coordinate site visits (monthly, quarterly, or as needed) for general Q&A with the minors, the FFS, and the shelter. Consistent communication will assist in developing a healthy working relationship and in understanding each other's roles and responsibilities. The FFS may be able to assist by providing ORR guidance in special cases. They can provide information regarding any issues that arise in ORR facilities within the AOR. The FFS can also serve as a liaison between FOJCs and the rest of shelter staff.

4.4 Office of the Principal Legal Advisor Attorneys

The Office of the Principal Legal Advisor's (OPLA) 900 attorneys represent the U.S. Government in exclusion, deportation, bond, and removal proceedings before the Department of Justice's (DOJ) EOIR. OPLA attorneys prioritize the litigation of removal hearings that involve criminal aliens, terrorists, and human rights abusers, as well as other priorities for enforcement.

OPLA serves as a key resource to JFRMU providing the following:

- Legal sufficiency review of NTAs;
- Advice regarding applicable statutes and regulations affecting UAC and families;
- Policy direction and specific policy changes;
- Points of contact for Congressional inquiries relating to UAC and family matters.

Examples may include:

- Trafficking Victims Protection Reauthorization Act;
- Proposed legislation dealing with alien families and children;
- Review of Congressional reports on repatriation of UAC and Government efforts to protect UAC from human trafficking;
- Assistance with responses to foreign country inquiries concerning the effect of U.S. immigration laws on foreign-born children (e.g., repatriation);
- Responses to inquiries from other departments (e.g., Department of State, DOJ, HHS) concerning the effect of U.S. immigration laws on foreign-born children;
- Guidance to OCCs on how to handle issues that may have initially arisen locally, but trends exist where issues will have nationwide effect (e.g., if OCCs in New York, Dallas, and Boston are all seeing a specific issue, OPLA headquarters could issue guidance).

The OPLA designates OCC attorneys in each of the 24 field offices. OCC attorneys are points of contact. JFRMU should be contacted for assistance in determining a course of action regarding unique juvenile and family cases. All actions should concur with the respective AOR's chain of command and/or guidance from the field legal advisor, and OCC.

OCC also represents the government in immigration court proceedings for UAC and family hearings. OCC is responsible for reviewing and providing their opinion on issues regarding UAC and family cases including:

- Reviewing for legal sufficiency NTAs issued to UAC and families placed in immigration proceedings;
- Reviewing supporting evidence and documentation in proceedings before immigration court;
- Contacting the FOJC to get additional supporting evidence or serve required documentation (e.g., Notice to EOIR: Alien Address (Form I-830) if child was moved; NTA on conservator, etc.);
- Communicating with ORR during court proceedings to determine best outcomes or alternative solutions;
- Evaluating UAC's or families' requests for benefits and/or relief (e.g., SIJS) that arise in immigration proceedings;
- Providing information to the IJ during immigration court proceedings and to the Board of Immigration Appeals when an IJ's decision is appealed.

External Relations

5 External Relations

5.1 Non-Governmental Organizations

The NGO community has provided supplies for minors and families being transported by ERO. The NGO community has also assisted in finding sponsors for families without places of residence. Occasionally an NGO may ask a FOJC for points of contact in other groups or organizations. For example, a FOJC may be asked to provide the contact information for a consular officer who can interview a juvenile in ORR custody. This type of information sharing is appropriate and often very much appreciated. FOJCs are reminded not to provide any law-enforcement-sensitive information to NGOs.

Establishing relationships within the NGO community allows FOJCs to seek assistance on behalf of minors and families that come into ERO custody. FOJCs should spend time and effort developing these relationships, as a means of understanding the NGO's unique roles and interests. It is highly recommended that FOJCs attend stakeholder meetings with NGOs in order to become familiar with existing programs in the AOR. Attending stakeholder meetings allow FOJCs to raise awareness of ERO's responsibilities and roles in the case management of UAC and families.

Note: These meetings are not intended as outlets for responding to concerns raised by NGOs.

5.2 Consulates

During the case management of a UAC, consulates should be contacted at the following times:

- When a UAC is encountered.
- When a UAC is placed with ORR; the case worker will contact the consulate for identity verification.

It is a combined interest for both ERO and ORR to work closely with the consulates because they can provide name and age verification as well as assistance in furthering the case processing. Working closely with the local consulate offices allows FOJCs to obtain travel documents and repatriate UAC to their home countries quickly and efficiently.

The FOJC should also work with the consulates in their inquiries regarding: missing minors; kidnapping victims; and victims of abuse--as long as that assistance does not conflict with privacy concerns posed by asylum regulations, T, U, or VAWA applicants, or other ICE policies.

Family Units

6 Family Units

6.1 Family Intake Guidance and Procedures

If a family unit is apprehended by CBP and detained, the family unit should be transferred to ERO custody. Prior to ERO accepting custody of a family unit, ERO must ensure that every family member has been processed and one of the following charging documents has been issued:

- I-862 Notice to Appear or;
- I-860 Notice and Order of Expedited Removal or;
- I-871 Notice of Intent/Decision to Reinstate Prior Order or;
- I-863 Referral to the Immigration Judge (in lieu of NTA-Visa Waiver) issued/served.
- M444 Credible Fear referral;
- I-867A & B Sworn Statement;
- IDENT/Fingerprint (over 14 years old);
- *Flores* Exhibit 6, Notice of Right to Judicial Review (for minors);
- Orantes advisals notification, if applicable;
- FBI Number issued (over 14 years old).

ERO can seek an emergency asylum interview at their local asylum office; depending on local agreements or the volume of pending interviews, the interview may not take place within 72 hours. Family units from visa waiver countries do not require an asylum referral, because the apprehending component has already issued an I-863.

6.2 Family Residential Center Intakes

When a family unit is detained, the ERO office with custody of the family unit can request placement at one of ICE's Family Residential Centers. Before submitting the request for placement, the FOJC should ensure that the family unit comprises at least one juvenile and an adult parent or legal guardian. An individual claiming legal guardianship must have legal documentation to prove the relationship. If in doubt, please consult with local management.

The FOJC should ensure that no member of the family unit has a criminal record or record of juvenile delinquency. SQ11 queries should be completed in the Treasury Enforcement Communications System (TECS) for all minors regardless of age, to check for missing children and kidnapping cases. It is imperative that medical conditions (including pregnancy) are disclosed on the intake form. This information will help to expedite the approval process.

The family unit placement request must include:

- Intake Admission Form (one form for each family member);
- I-213;

- Medical clearance (if needed).

6.3 Temporary Housing of FAMU

Hotels can sometimes be used as temporary housing for family units until family residential placement is determined. FOJCs should ensure that at least one officer or contract security guard of the appropriate gender is detailed with the family unit. Field offices may have local arrangements or modifications that differ from these guidelines. Refer to your Contracting Officer Representative (COR) if your field office does not have local hotel agreements and/or if a hotel is feasible. FOJCs are reminded to ensure local practices do not conflict with ICE policy.

Reporting Requirements

7 Reporting Requirements

JFRMU established various reporting requirements for FOJCs to monitor both the success at which ICE meets operational requirements specific to the UAC population, as well as to track data quality and integrity. Currently FOJCs are required to submit the following reports to the JFRMU mailbox [REDACTED].

7.1 Daily UAC Workload Reporting

UAC represent one of the most vulnerable populations that DHS encounters. In accordance with the TVPRA, ICE is responsible for transporting most of these UAC to the care of the ORR within 72 hours. ICE Headquarters requires daily reporting of UAC apprehensions, referrals, and transfers. To comply with this requirement each ERO field office must report the below information to JFRMU daily via email:

- Number of UAC apprehensions referred to ORR;
- Number of UAC *pending* placement by ORR;
- Number of UAC *designated* placement by ORR;
- Number of UAC transports conducted in the past 24 hours (broken out by charter, commercial air, ground—separated by ERO and CBP);
- Breakdown by length of time UAC awaiting transfer to ORR (by age);
- Number of UAC a FOJC is preparing for transport within the next 24–48 hours;
- Number of UAC placed by CBP.

7.2 “Hanging Transfers” Reporting

JFMRU uses the ERO Hanging Transfers Report to monitor proper case management practices and record appropriate time in custody. Each AOR should review the Hanging Transfer Report and accept the transfer on the actual transfer date. If the transfer was completed in error, the AOR should notify the transferring FOJC to correct EADM by deleting the last book out location and updating it to reflect the appropriate release type. All UAC released to a sponsor should be booked out of EADM on the date released by the ORR as indicated on the ORR discharge form.

7.3 Monthly *Flores* Agreement Reporting

According to the terms of the *Flores* Settlement Agreement, ICE must submit a *Flores* Violation Report to the DOJ on a monthly basis. The report must include a list of those juveniles who spent more than 72 hours in ICE custody. The report must include the following information for each individual *Flores* violation:

- Biographical information;
- Detention location;
- Reason a minor was held in custody for longer than 72 hours.