



Forced From Home:

The Lost Boys and Girls of Central America

Executive Summary

Increased Migration of Unaccompanied Children to the United States

Beginning as early as October 2011, an unprecedented increase in the number of unaccompanied alien children (UACs) from the Central American countries of Guatemala, El Salvador and Honduras began migrating to the United States. During the first six months of fiscal year 2012, U.S. immigration agents apprehended almost double the number of children apprehended in previous years. The Department of Health and Human Service's (HHS) Office of Refugee Resettlement (ORR), the agency tasked with the care and custody of these children, had a record number of 10,005 in its care by April 2012.

In June 2012, the Women's Refugee Commission (WRC) conducted field and desk research to look into possible reasons for the influx in the number of children migrating alone, and the government's response, including conditions and policies affecting unaccompanied children. The WRC interviewed more than 150 detained children and met with government agencies tasked with responding to this influx, including the Department of Homeland Security's (DHS) Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), ORR and the Department of Justice's Executive Office of Immigration Review (DOJ/EOIR), as well as country experts, local service providers and facility staff. Our recommendations include both legislative and administrative solutions for the protection of UACs.

Lost Boys and Girls of Central America

Most of the children who have been apprehended as part of this influx are from three countries in Central America: Guatemala (35%), El Salvador (27%) and Honduras (25%). The majority of the children the WRC interviewed said that their flight northward had been necessitated by

the dramatic and recent increases in violence and poverty in their home countries. The WRC's independent research on the conditions in these countries corroborated the children's reports. These increasingly desperate conditions reflect the culmination of several longstanding trends in Central America, including rising crime, systemic state corruption and entrenched economic inequality.

Children from Guatemala, Honduras and El Salvador cited the growing influence of youth gangs and drug cartels as their primary reason for leaving. Not only are they subject to violent attacks by the gangs, they explained, they are also targeted by police, who assume out of hand that all children are gang-affiliated. Girls also face gender-based violence, as rape becomes increasingly a tool of control. Children from Guatemala cited rising poverty, poor harvests and continuing unemployment as reasons for migrating. Almost all of the children's migration arose out of longstanding, complex problems in their home countries – problems that have no easy or short-term solutions.

The title of this report, "The Lost Boys and Girls of Central America," reflects that violence in Central America is generating "lost" children. Until conditions for children in these countries change substantially, we expect this trend will be the new norm.

U.S. Government Response to the Influx

In response to this influx, ORR worked around the clock to open several emergency surge shelters to move children out of CBP holding facilities where they are initially held upon apprehension for periods not to exceed 72 hours. While waiting to be placed in a longer-term ORR facility, children were held for up to two weeks in CBP short-term hold facilities. These facilities are not designed for long-term detention or to hold children. The lights stay

on 24 hours a day, and there are no showers or recreation spaces. During the influx, they were sometimes so overcrowded that children had to take turns just to lie down on the concrete floor. Advocates also became concerned that ORR was operating in triage mode and as a result the protection and due process needs of children were not being adequately addressed. The WRC discovered many children stayed in temporary shelters with little to no access to Know Your Rights presentations and legal screening. The WRC also discovered other resource and oversight gaps with DHS, HHS and the Department of Justice's Executive Office of Immigration Review (EOIR) that in turn affected the protection and rights of UACs. The following key recommendations seek to address many of these identified gaps.

Recommendations for U.S. Response

The following recommendations seek to address the resource gaps that resulted in many of the problems found during the WRC's fact-finding trip. The influx of UACs also exacerbated structural and procedural problems within HHS, DHS and DOJ. To rectify these problems, the relevant federal agencies and the Administration must request the necessary funding in their budget submissions to Congress. These federal agencies will need the support of Congress and the White House to implement reforms that address these systemic problems and appropriate the necessary funding. The Office of Management and Budget (OMB) should rescind its requirement that HHS place a certain number of detention beds near the U.S./Mexico border. This requirement does not necessarily ease the transportation burden of ICE. The White House should support the agencies as they determine a more cost-effective way to transport and detain these children without compromising the protection needs of children. Federal agencies working domestically and abroad, must adopt new policies that ensure protection for vulnerable children. Current policies should be reviewed for their disparate impact on children.

Recommendations to HHS

Recommendation 1.1: ORR should ensure that all children receive basic social services; this should include case management, counseling services and full educational programming. ORR should allocate emer-

gency funding so that licensed care programs can hire additional staff to provide short-term services at times of influx.

Recommendation 1.2: HHS should work to open facilities in "hub" areas located near services for children and in locations where most children are released. HHS should convert existing shelters on the border into short-term "reception" or "transition" centers. Children should stay for no more than two weeks, after which time they should be moved to a placement in hub locations close to the child's prospective sponsor. Children placed in reception centers along the border should receive as many services as possible during the very short time they are there, including legal orientations/screenings, counseling and case management. Children should then be transferred to hub locations in the vicinity of sponsors pending the processing of reunification. Both HHS and DHS should invite input from service providers and NGOs in determining appropriate hub locations based on the availability of services. (See also Recommendation 2.8.)

Recommendation 1.3: DCS must ensure that its sub-contractors who provide services for detained children do not inappropriately employ threats against a child's immigration case or release to a sponsor as a way to ensure compliance with facility rules and regulations. DCS must ensure all facilities have a process that guarantees children can make complaints without fear of reprisal.

Recommendation 1.4: DCS should expand its use of alternatives to detention, such as foster families and foster group homes. The vast majority of DCS placements (80%) are in large residential confinement settings such as shelters, staff-secure and secure. (See box on page 14.) DCS should rely on child welfare best practices and UNHCR Detention Guidelines for expanding community-based placements. A child's preference should also be a consideration.

Recommendation 1.5: HHS and ORR should support DCS by providing additional staffing in times of increased arrivals. This will require funding. HHS should request and receive funding, similar to that of humanitarian funds for refugee emergencies, to be able to use in subsequent emergencies or increased arrivals. This will ensure appropriate resources are available to maintain

the integrity of DCS services, oversight and supervision.

Recommendation 1.6: HHS should create a separate monitoring mechanism for children in DCS custody. Monitors should be able to review oversight systems, interview children and receive phone calls from UACs in custody or from advocates.

Recommendation 1.7: DCS should review procedures and policies to see how they can incorporate the views and concerns of children. In order to consider the child's best interests, the child's voice, wishes and concerns must be fully integrated.⁸²

Recommendation 1.8: HHS must prioritize funding for legal orientation and screening as a necessary service. This funding should increase proportionally as more children are placed into DCS custody. ORR should also create emergency contract plans with NGOs for situations where there are significant increases in the number of children arriving into custody.

Recommendation 1.9: HHS should ensure children are provided with information on how to secure legal assistance while in detention and how to access free or low-cost legal services upon release. They should be able to make confidential phone calls to private or legal services attorneys while in detention. HHS should also provide additional funding for post-release legal services. This is critical as children are released more quickly and at higher rates than in the past.

Recommendation 1.10: ORR should provide additional resources for post-release services proportional to the increase of UACs. ORR should respond immediately when backlogs in post-release services occur in order to assess whether additional funding or contracted providers are needed.

Recommendation 1.11: DCS should reform its current post-release referral process so that children's needs are being adequately met without duplicating efforts and to ensure the child's best interests are being met. Post-release service plans should be individualized according to the child's needs. This should include an outside referral request system for attorneys, Legal Orientation Program for Custodians (LOPC) providers and child advocates to help ensure continuity services throughout the immigration process. See Recommendation 3.4 for legal services.

Recommendation 1.12: The Trafficking Victims Protection Reauthorization Act (TVPRA) should be revised or implemented to ensure that service provision is provided according to the children's actual individual needs and not some arbitrary guideline.

Recommendations to DHS

Recommendation 2.1: CBP should develop an emergency response plan for times of huge influxes to meet the needs of vulnerable populations who may stay in its care for periods longer than 72 hours. CBP should institutionalize some best practices, including partnerships with ORR for UACs' immediate care needs and designate certain stations as best equipped to deal with while children await placement in ORR facilities.

Recommendation 2.2: CBP needs to implement new policies to ensure that the basic human rights of those in confinement are upheld. Simple changes like regulating the temperature, providing blankets, turning lights off at night, providing access to bathing facilities and giving adequate food and water should be the baseline for condition standards.

Recommendation 2.3: DHS should institutionalize a zero tolerance policy towards agents who commit human rights abuses. DHS must ensure all CBP agents receive necessary child protection training and are held accountable to agency standards for the apprehension and detention of migrants. The federal government must ensure there is adequate oversight and accountability for agents who violate policies and practices. Independent monitoring, transparency and access to facilities by NGOs and international organizations must be instituted.

Recommendation 2.4: CBP should allow NGOs to conduct monitoring visits similar to ICE's access policy.

Recommendation 2.5: CBP must create and implement training for its officers on how to screen for vulnerable children. CBP should consider collaborating with subject matter expert NGOs on designing and executing these trainings. CBP should ensure child welfare experts conduct the screenings and should monitor the implementation and effectiveness of screening.

Recommendation 2.6: CBP should ensure children are informed of their rights while in custody in a man-

ner and language they can comprehend. Children must be given meaningful and adequate information, mechanisms and opportunity to assert their rights, file complaints and claims for protection.

Recommendation 2.7: DHS and Congress should appropriate funds for adequate staff at ports of entry.

Recommendation 2.8: ICE should subcontract with NGOs or child welfare experts to assist with the transport and screening of children. A pilot program would allow for assessment and cost benefit analysis.

Recommendation 2.9: The White House should support DHS and HHS efforts to map the apprehension, detention and release of UACs and, if deemed appropriate, give them the flexibility to place their detention facilities in locations closest to sponsors and necessary services for the detained children. The Administration should rescind its requirement that HHS place a certain number of detention beds near the U.S.-Mexico border and allow the agencies to determine a more cost-effective way to transport and detain these children. This would also ensure HHS is able to provide all necessary services to these vulnerable migrants. (See also Recommendation 1.2.)

Recommendation 2.10: DHS should wait to serve a child's Notice to Appear on the immigration court where the child will either be detained for the duration of their case or where he or she will be reunified.¹⁰⁸ Alternatively, DHS should coordinate with EOIR for the creation of an automatic transfer system instead of requiring the child to submit the change of venue form.¹⁰⁹ This will reduce the number of in absentia removal orders issued against children and reduce a large administrative burden on EOIR, which is responsible for transferring cases and files to appropriate courts.

Recommendations to DOJ

Recommendation 3.1: Increase the budget of the LOPC program to allow it to adequately serve the increased number of custodians needing information on how to comply with EOIR court requirements and how to access important services the UAC may need upon reunification.

Recommendation 3.2: Allow EOIR to provide all information and services it deems fit to support the sponsor during reunification in order to reduce in absentia re-

moval orders for released UACs. If UACs are moved to new venues by the federal government, the federal government should be responsible for ensuring the child's court case follows them. (See also Recommendation 2.9.)

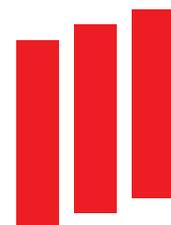
Recommendation 3.3: Ensure each EOIR Immigration Court has a juvenile docket. DOJ should require each EOIR courthouse to lend space to LOPC grantees, nonprofit legal service providers and *guardian ad litem*/child advocate programs to conduct presentations and interviews for UACs and their sponsors.

Recommendation 3.4: All children should be guaranteed legal counsel in removal proceedings and subsequent appeals.

FOR THE FULL REPORT, SEE <http://wrc.ms/WuG8IM>.

Since 1989, the Women's Refugee Commission has advocated for policies and programs to improve the lives of refugee and displaced women, children and young people, including those seeking asylum—bringing about lasting, measurable change.

The Women's Refugee Commission is legally part of the International Rescue Committee (IRC), a non-profit 501(c)(3) organization, but does not receive direct financial support from the IRC.



**WOMEN'S
REFUGEE
COMMISSION**

122 East 42nd Street
New York, NY 10168-1289
212.551.3115

info@wrcommission.org

womensrefugeecommission.org