



Tornillo, photo courtesy of Reuters

The Flores Settlement Agreement & Unaccompanied Children in Federal Custody



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This briefing document is focused on issues relating to unaccompanied children in federal immigration custody. The *Flores* Settlement Agreement also applies to accompanied children in federal custody, who are not discussed in this document.

Assertions contained within this document are based on *Flores* counsel's conversations with numerous detained children, potential sponsors, and children's immigration attorneys over the past few years. Featured quotes are taken from statements by detained children and potential sponsors completed by *Flores* counsel over the past year.

Overview

Every year, thousands of unaccompanied children arrive in the United States to escape persecution in foreign countries. Children who arrive without a parent or legal guardian are classified as “unaccompanied” and transferred to the custody of the Office of Refugee Resettlement (ORR), where they remain detained until they are released to sponsors.¹

Over the course of 2018, the total population of children in ORR custody increased by more than 97 percent – reaching its highest level in history – even though the number of children arriving at the U.S. border remains comparable to years past. So many children are now languishing in ORR custody that the agency has begun detaining children at unlicensed, “influx” facilities. Recent changes in policy and practice have led to unnecessary delays and obstruction in the release of these children to their families. These policies and practices have increased the suffering of immigrant children and families, while increasing the burden on taxpayers as well.

The *Flores* Settlement Agreement, reached in 1997, applies child welfare protections to vulnerable immigrant children. The Settlement sets national standards for the detention and treatment, with a preference for prompt release, of all minors detained in the custody of the federal government, and is critical to the ongoing protection of these children. The Trump Administration has indicated that it aims to eliminate the Settlement Agreement.

This briefing is intended to provide a comprehensive overview of the current state of unaccompanied children in ORR custody, such that legislators can pursue solutions to protect the best interests of this vulnerable population.

To that end, this briefing addresses the following topics:

1. Background on the *Flores* Settlement Agreement
2. Current state of unaccompanied children in the United States
3. Solutions

“Being detained for such a long time has made me feel really bad. I never used to have such problems with depression or anxiety, but since I have been detained I have become much more frustrated. Being detained at Yolo makes me feel like I am going crazy.

I am always alone with my thoughts and bad memories of things that have happened to me run through my head all day. I don’t know how I can improve my mental health if I am kept in a cage.”

Child
Yolo Secure Detention Facility, CA

“I feel like I am a prisoner here, but I have not done anything wrong. Every morning I wake up crying because I want to be with my family. It is difficult for me to be here because I don’t know what is going to happen to me.

The staff members tell me what they are not allowed to treat us with any sort of affection. They are told that we are not their children, so they should not treat us with any affection.”

Child
Homestead, FL

Background: The Flores Settlement Agreement

The *Flores* lawsuit was filed in 1985 in order to address the mistreatment of immigrant children in federal custody. The case settled in 1997 and remains under the supervision of U.S. District Judge Dolly Gee in the Central District of California. The *Flores* Settlement Agreement sets national standards for the detention, treatment, and release of all minors detained in the custody of the federal government. Plaintiffs have filed multiple motions to enforce the Settlement against the government's violations of its terms.

The Settlement requires ORR to promptly release children to appropriate sponsors.

- Children must be released “without unnecessary delay” to a sponsor, which may be a parent, relative, designate of the parent, or responsible adult, as deemed appropriate.²

The Settlement was created to bring child welfare protections to children in immigration custody.

- Children must be held in the “least restrictive setting” appropriate, based on his or her age and needs.³

With limited exceptions, discussed below, the Settlement requires ORR to place unaccompanied minors in non-secure facilities that are licensed to care for dependent children.⁴

- Licensed facilities must “comply with all applicable state child welfare laws and regulations.”⁵
- Licensed facilities must be “licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children . . .”⁶
- Over the past few years, Judge Gee has issued orders reinforcing the Settlement’s requirement that class members be placed in non-secure, licensed facilities.
 - In 2015, the court found that the government’s placement of class members in secure, unlicensed ICE family detention centers breached the Settlement. The court stated, “according to the language of the Agreement, Defendants must house children who are not released in a non-secure facility that is licensed by an appropriate state agency to care for dependent children.”⁷

ORR may only deny children a licensed placement under narrow circumstances.⁸

- The Ninth Circuit has affirmed Judge Gee’s ruling that “in the event of an emergency or influx of minors into the United States,” minors may be held in unlicensed facilities for 20 days, “if 20 days is as fast as [ORR], in good faith and in the exercise of due diligence, can possibly go in screening family members”⁹
- ORR is not required to place a child in a licensed facility if the child has committed a violent crime or non-petty delinquent act, has threatened violence while in federal custody, is an unusual escape risk, or is so disruptive that secure confinement is necessary to ensure the welfare of the minor or others.¹⁰

The Settlement applies regardless of whether or not a facility is located on federal land.

- The Settlement protects “[a]ll minors who are detained in the legal custody of the INS” or its successors in interest, ICE, CBP, and ORR.¹¹ The Agreement thus covers all children without regard to the title-holder of the real property where ORR chooses to detain them.
- The Settlement requires ORR to house the general population of detained minors in facilities holding a valid license to care for dependent, as opposed to delinquent, children issued by the state in which the facility is located.¹² ORR must accordingly obtain a state dependent care license for facilities located on federal land, such as the Homestead facility. Regardless of the reason, if ORR cannot obtain a state license for a facility, it may place children in such a facility only temporarily: that is, ORR must transfer them to a licensed placement “as expeditiously as possible.”¹³
- As the federal court ruled regarding ICE’s professed inability to obtain state dependent care licenses for facilities in which it detains families, if a state deems such facilities ineligible for dependent care licensure, ICE simply may not confine children in such facilities, except temporarily.¹⁴

“The children should be home with their parents. The government makes lousy parents.”¹⁵

*Lynn Johnson
Assistant Secretary
HHS Admin. for Children & Families
Dec. 18, 2018*

The Settlement is critical to the safety and welfare of immigrant children.

- Decades of child welfare research establish that children separated from family should be placed in the least restrictive environment possible.
 - Children in foster care should only be placed in non-family settings (such as shelters, group care, or residential treatment centers) when such placements are therapeutically or medically necessary.¹⁶
 - Compared to children placed with foster families, children placed in non-family settings are more likely to experience further physical abuse, have poorer educational outcomes, and become involved in the juvenile justice system.¹⁷
- The requirement that ORR-contracted facilities be licensed by the state for the care of dependent children is a core component of the Settlement.
 - Every state child welfare system requires group homes and other facilities housing dependent children to be licensed.¹⁸
 - State child welfare licensing standards are designed to ensure that all child care programs meet minimum requirements in order to protect the health and wellbeing of children. Judge Gee has emphasized the importance of this Settlement requirement, stating that the “purpose of the licensing provision is to provide class members the essential protection of regular and comprehensive oversight by an independent child welfare agency.”¹⁹
 - For example, licensing standards in the state of Texas include detailed requirements regarding child/caregiver ratios, staff training and certification, education, medical care, nutrition and hydration, medication administration, discipline, emergency behavior intervention, safety and emergency practices, physical site safety, recreation activities, and transportation, among many others.²⁰

“The best place for a child is with a parent. That’s well established in society, under law, in social work practice . . .

This is just another iteration of family separation. Children being kept away from their parents and family members, in an institutional setting, in the desert²¹

*Robert Carey
Former ORR Director
Nov. 29, 2018*

The detention and separation of children from their families causes profound and long-lasting mental and physical harm.

- A longstanding body of research has established that detaining children interferes with healthy development, exposes youth to abuse, undermines educational attainment, makes mentally ill children worse, and puts children at greater risk of self-harm.²²
 - Separation from adult caregivers, peer groups, and educational and work settings undermines youths’ developmental processes and ability to gain skills needed to transition into adulthood.²³
 - Studies of immigrant children detained in the United States have discovered high rates of posttraumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral challenges.²⁴
- The American Academy of Pediatrics has explained that “highly stressful experiences, like family separation, can cause irreparable harm, disrupting a child’s brain architecture and affecting his or her short- and long-term health. This type of prolonged exposure to serious stress—known as toxic stress—can carry lifelong consequences for children.”²⁵
 - Toxic stress is associated with increased rates of physical illness such as diabetes, cancer, posttraumatic stress disorder (“PTSD”), and heart disease, as well as mental health issues and risky health behaviors.²⁶
 - These posttraumatic symptoms do not disappear when children are reunited with their families.²⁷ Children may experience developmental delays²⁸ and poor psychological adjustment, potentially affecting functioning in school.²⁹
- A primary factor in recovering from such trauma is reunification with a parent or other trusted adult. Without the presence of trusted caregivers, children are often unable to cope with the psychological trauma and stress associated with detention.

“For about my first six months at the shelter, I was doing okay. But, as time wore on, I got more and more depressed about being detained and not knowing when I would be released, and I began cutting myself.”

*Child
Shiloh Residential Treatment Center, TX*

“[E]xpert consensus has concluded that even brief detention can cause psychological trauma and induce long-term mental health risks for children.”³⁰

*American Academy of Pediatrics
Policy Statement
2017*

Current State of Unaccompanied Children in the United States

Fewer sponsors are coming forward, leaving children in ORR detention without anywhere to go.

- Enhanced immigration enforcement and anti-immigrant rhetoric has made potential sponsors fearful of coming forward to take care of detained children.³¹
- ORR now shares sponsor information and fingerprints with Immigration and Customs Enforcement (ICE). Thus far, ICE has arrested at least 170 people who came forward to sponsor children.³²
 - In April 2018, ORR, ICE, and CBP signed a Memorandum of Agreement agreeing to vastly expand the information collected from sponsors and household members and to share that information between the agencies.³³
 - In May 2018, ICE promulgated regulations permitting it to use ORR sponsor information for immigration enforcement.
 - In June 2018, ORR began requiring fingerprint checks of all sponsors and their household members.³⁴ As detailed below, this policy has since been partially reversed.
- Due to these policy changes and arrests, potential sponsors are now afraid of being detained or deported as a result of coming forward to sponsor a child, leaving children without any viable sponsors to take care of them.

For the sponsors that are coming forward to take care of children, heightened ORR sponsor requirements result in applications being delayed for long periods of time or denied altogether with no opportunity to appeal. These requirements in no way further child safety.

1. New Fingerprinting Policies

- In June 2018, ORR dramatically changed the requirements for all adults, including parents, to sponsor children for release from ORR custody.³⁵
- ORR expanded fingerprinting requirements to include all sponsors and their household members, which significantly increased the number of people who were required to be fingerprinted as part of the release process. There was not a corresponding increase in the capacity of ORR to process these additional fingerprints.

“I want to live with my mom. My mom has done everything the government has asked her to do... My case manager has told me that they are waiting on the fingerprints for my brother to clear because he lives with my mother. It has been a month since they had the fingerprinting done.”

*Child
Shiloh Residential Treatment Center, TX*

1. New Fingerprinting Policies (cont.)

- Fingerprint checks can add weeks and months to the length of time children are detained. Family members have waited weeks for appointments to have their fingerprints taken at one of the limited sites ORR has set up, and then waited weeks longer – and in some cases months longer – for results to be processed. In some cases, sponsors have been told that their fingerprints have “expired” and they need to re-submit their fingerprints, restarting the entire process.
- In December 2018, federal officials announced a partial reversal in policy, admitting that the new fingerprinting requirements had not demonstrated any benefit to the safety of children in ORR custody.³⁶
- Following the partial reversal of the fingerprinting policy, more than 4,000 children were released from ORR custody within a span of four weeks – the largest decrease in the program’s history. After the policy change was implemented, the unlicensed tent city in Tornillo, Texas was finally shut down.³⁷

“Then, the shelter called to tell me that my fingerprints had expired, and I needed to take them again before they would release [my niece]. I was so surprised, confused, and upset. I didn’t know the fingerprints I took could expire . . .

The shelter has all the information they need, and they were just about to release [her] to me. Now we have to wait, again. This process has taken so long, and I don’t understand why . . . I am trying to comfort [my niece], but it is difficult because I am extremely sad too.”

Sponsor

“Since the implementation of this new policy five months ago, ORR has determined the additional steps required to fingerprint all household members has had an impact on the timely release of UAC without demonstrated benefit to the safety of children after their release from ORR care.”³⁸

*Dept. of Health & Human Services
Statement
Dec. 18, 2019*

2. Onerous Sponsor Reunification Requirements

- *Flores* counsel have interviewed hundreds of detained children and spoken to many of their potential sponsors and family members. Over the past few years, *Flores* counsel have documented examples of increasingly stringent release requirements for sponsors – requirements that are not reasonably related to the health and safety of children.
- **Sponsors have been told that children will not be released to their care unless:**
 - They move to a different neighborhood
 - They move to a larger apartment or house
 - They reduce the total number of children living in their home
 - They are able to identify additional sources of income to support the child
 - They can produce a photo establishing a prior relationship with the child (despite the fact that many families do not have access to this technology)
 - They can afford the psychotropic medications that the government has prescribed
 - They enroll the child in school before the child is released from ORR custody, when the school will not allow enrollment until the child is in the physical custody of the sponsor

“My case worker told me that the only reason that I haven’t been released to my [sponsor] is because I don’t have an official birth certificate. My mother died before she could register me for an official birth certificate . . . I don’t know what other documents I could provide to prove my relationship with [her].

My case worker once told me that my case was “perfect” and that I was “golden” to get released, but I’m still here.”

*Child
Shelter, TX*

“My case worker told me I needed pictures or messages from my sponsor to be able to go with her. I have no way of getting that information. I had never seen a cell phone before I came to the United States. I barely have any photos with my mother.”

*Child
Homestead, FL*

“My sister . . . ORR told me I couldn’t live with her. I don’t fully understand why ORR won’t let me live with my sister, but I think it is because ORR thinks she doesn’t have enough money. I would prefer to live with my sister or family over foster care, and I believe even poor families have the right to live together.”

*Child
Shelter, CA*

3. Inappropriate Release Requirements for Children

- *Flores* counsel have spoken to ORR-contracted health providers, who state that they will not approve the release of a child to a sponsor unless the child is determined to be “stable.” The irony, of course, is that the child’s mental distress is overwhelmingly due to their detention and separation from family.
 - Studies of immigrant children detained in the United States have discovered high rates of posttraumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral problems.³⁹ These health issues are exacerbated by continued detention and separation from caregivers.
- Children have been told that they will not be released unless they agree to take the psychotropic medications prescribed by ORR-contracted physicians. These medications, including strong anti-psychotics and anti-depressants, are routinely prescribed to children without the informed consent of the child’s parent or legal guardian.
- In 2017, ORR implemented a new policy requiring former ORR Director Scott Lloyd to personally review and approve the release of any detained immigrant child who was or had ever been in a heightened placement while in ORR custody.⁴⁰ In his deposition, Mr. Lloyd stated that he adopted the director-level review policy within hours of becoming ORR director without any analysis or a count of the children in his custody that would be impacted.⁴¹ In granting a preliminary injunction enjoining the policy, U.S. District Judge Paul Crotty noted, “This is at the zenith of impermissible agency actions.”⁴²

“My father is currently trying to sponsor my release. The case has been completed. He has completed the home studies and passed the fingerprinting and background checks. Despite this, I have been told that I need a recommendation from a psychologist in order to be released.”

Child
Yolo Secure Detention Facility, CA

“I just want my son to come and live with me. I think that if he is able to live with me, his mental health will improve and he will feel much better. [He] is desperate to get out of detention . . . Whenever I talk to him on the phone I am able to help him calm down and overcome his feelings of anxiety.”

Sponsor, Child’s Father

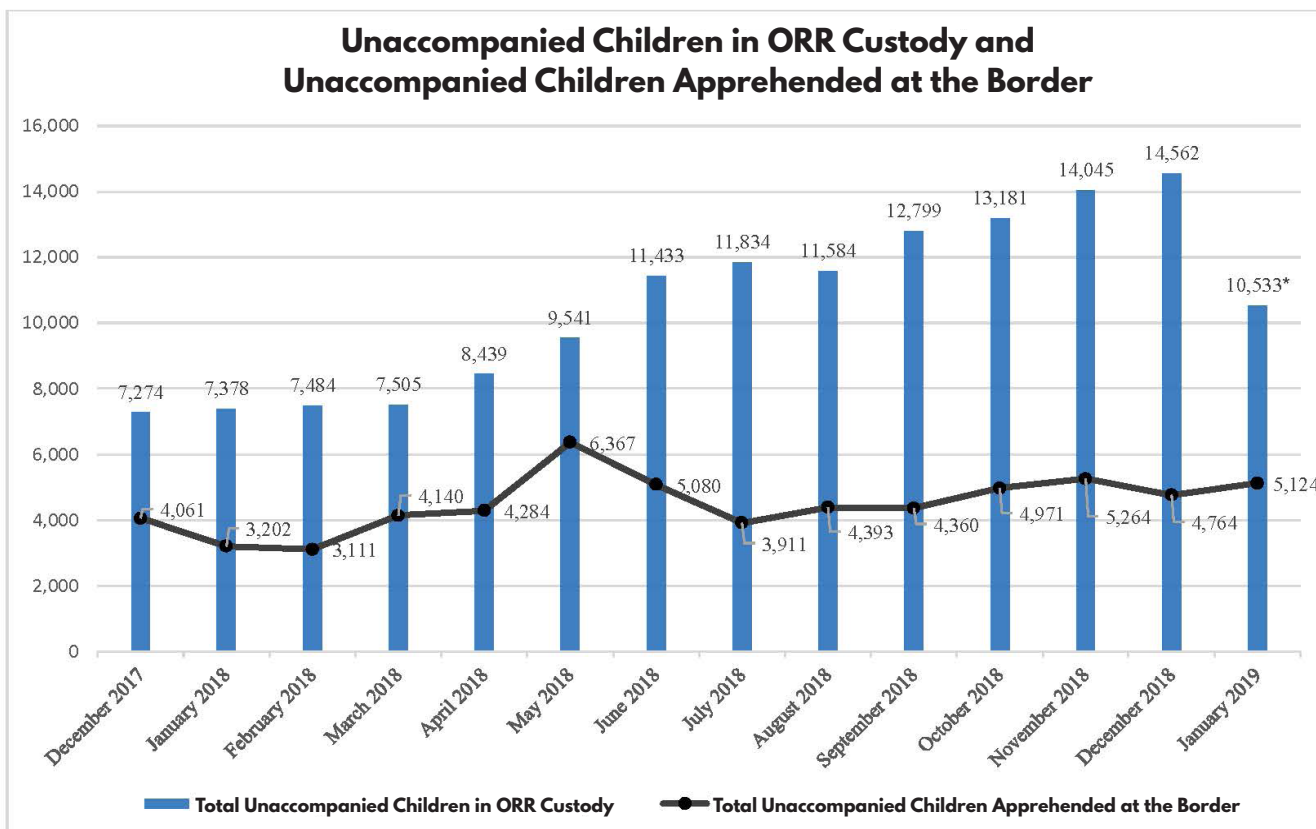
“All of us were angry because the staff forced us to take medication. We were told that the medication consisted of vitamins and that we had to take them in order to grow . . . The staff threatened to throw me on the ground and force me to take the medication. I also saw staff throw another youth to the ground, pry his mouth open and force him to take the medicine”

They told me that if I did not take the medicine I could not leave, that the only way I could get out of Shiloh was if I took the pills.”

Child
Shiloh Residential Treatment Center, TX

There is no “surge” at the border that accounts for the skyrocketing number of children in ORR custody.

While the number of unaccompanied children apprehended at the U.S. border has remained steady, the total population of children in ORR custody has continued to increase. If the federal government faithfully adhered to the terms of the Settlement, which require prompt release and licensed placement, then there would be fewer children in ORR custody and the children in ORR custody would be better protected.



*Note: The significant decrease between December 2018 and January 2019 occurred after the government’s partial rollback of the fingerprinting policy, which allowed more than 4,000 children to be released to their families.

Data Sources:

- “Total Unaccompanied Children in ORR Custody” – ORR data provided to *Flores* counsel, pursuant to the *Flores* Settlement Agreement.
- “Total Unaccompanied Children Apprehended at the Border” – CBP data (U.S. Customs and Border Patrol, *Southwest Border Migration FY2019*, available at <https://www.cbp.gov/newsroom/stats/sw-border-migration>).

ORR is distorting the Settlement’s emergency provisions to detain children in unlicensed facilities for extended amounts of time.

In 2018, the federal government placed unaccompanied children at two “emergency influx” facilities: a facility in Homestead, Florida, and a tent city in Tornillo, Texas. In contrast to the comprehensive requirements of state child welfare licensure, ORR requirements for “Influx Care Facilities” are extremely limited.⁴³

Homestead

- Although ORR describes Homestead as a “temporary emergency influx shelter,” ORR data show that children are being held there for far longer than 20 days: as of mid-January, more than 140 children had spent 100 days or more at Homestead, and 26 children had spent 200 days or more at Homestead. On February 13, 2019, HHS reported that the average length of stay for children held at Homestead is 67 days.⁴⁴
- According to the government, more than 1,600 children are detained at Homestead,⁴⁵ and the facility has been recently expanded to house 2,350 children.
- According to HHS, the average daily cost to care for a child at an “influx” facility such as Homestead is \$775 per day, about three times the cost of a licensed shelter placement.⁴⁶

“I also get huge headaches because I feel like I can’t cry here. I wish I could cry here but I can’t cry comfortably. I have to hold my tears because if not they send me to the clinician. I don’t want to go to the clinician because they don’t want to help my case I also want to try to hug my girlfriends when they are crying, but [staff] won’t let me.”

*Child
Homestead, FL*

“I feel very desperate because my case with my sponsor to get me out of here is moving very slowly. I have never seen my case worker since I arrived here. . . . When I feel really sad, I want to leave running. I get very desperate.”

*Child
Homestead, FL*

Tornillo

- When Tornillo was open, it held nearly 3,000 children in white canvas tents in the Texas desert.⁴⁷
- ORR waived FBI background checks for all staff at Tornillo.⁴⁸
- Visits to Tornillo by U.S. Senators and Representatives were instrumental in calling public attention to the dire situation.
- After the government partially reversed the fingerprint policy, ORR was able to close the facility.⁴⁹

“There are about 31 girls in the tent with me. There is no privacy. We aren’t allowed to hug each other or touch in any way.

Every day I feel sad. I don’t have freedom to leave here. All I want is to be with my family.”

*Child
Tornillo, TX*

The protections provided by the Flores Settlement Agreement are under attack.

- **Dismantling the *Flores* Settlement Agreement is a key goal of this administration's immigration agenda.**
 - In a letter to Congress on January 4, 2019 about border security, President Trump listed “[t]erminate the *Flores* Settlement Agreement” as the most pressing legal change desired by his Administration.⁵⁰ In his State of the Union Address, President Trump described immigrant children as violent gang members who “took advantage of glaring loopholes in our laws to enter the country as unaccompanied alien minors.”⁵¹
- **The Department of Homeland Security and Department of Health and Human Services published a notice of proposed rulemaking and regulations to replace the *Flores* Settlement.**⁵²
 - As written, the proposed rule is inconsistent with the settlement and would completely dismantle the current *Flores* standards – allowing federal agencies to expand family detention centers, increase the length of time that children spend in detention, and create an alternative licensing process that undermines state child welfare laws and basic protections for children.
 - As of mid-February, the final regulations had not yet been published.
- **Members of Congress have introduced multiple bills aimed at undermining the Settlement's requirements.**

Solutions

The fundamental principles established by the *Flores* Settlement Agreement are critical to providing basic protections for detained immigrant children and must be defended. Congress has the ability to intervene and protect these vulnerable children by taking the following action.

1. **Protect and codify the principles established by the *Flores* Settlement Agreement.**
 - Reject legislative proposals that undermine or eliminate the *Flores* Settlement Agreement.
 - Support legislative proposals that codify the requirements of the *Flores* Settlement Agreement.
2. **Ensure ORR adheres to the *Flores* Settlement Agreement.**
 - Use congressional oversight authority to ensure that:
 - Policies and practices do not interfere with timely release.
 - Children are not held for prolonged periods of time in unlicensed detention facilities.
 - Children are placed in the least restrictive setting and are provided with needed services and supports.
 - In the event of a true emergency, ensure that ORR does not use influx facilities to detain children any longer than is truly necessary before transferring them to licensed dependent care facilities.
 - In the event that there is no true emergency, ensure that the government does not open up influx facilities.
3. **Support policies that encourage sponsors in coming forward to take custody of detained children.**
 - Eliminate the sharing of information between ORR and ICE for immigration enforcement purposes.
 - Encourage legislative proposals that explicitly provide potential sponsors with protection against immigration enforcement.
 - Encourage legislative proposals that provide sponsors and released children with needed services and supports.
4. **Support policies that streamline the reunification process for children and sponsors and reflect reasonable requirements for release.**
 - Require ORR to standardize sponsor requirements, such that individual facilities may not impose requirements that are unnecessarily burdensome and do not protect the safety of children.
 - Require ORR to standardize requirements for children to be released, such that children are not detained indefinitely in order to ensure that they have been “stabilized” prior to release.
 - Require ORR to evaluate a proposed sponsor’s fitness with reasonable dispatch. State and local child protective services routinely conclude investigations into custodians’ fitness within two or three weeks. From the standpoint of child welfare, there is no reason for ORR to take several months to evaluate available sponsors, during which the trauma detention inflicts on children only compounds.

Solutions

5. **Increase ORR's capacity to expeditiously reunite families.**
 - Require ORR to maintain reasonable ratios between youth and Federal Field Specialists. Where necessary, hire more Federal Field Specialists to oversee the release process.
 - Require ORR to maintain reasonable ratios between youth and Case Management Specialists. Where necessary, hire more Case Management Specialists to facilitate the release process.
 - Require ORR to improve training for Case Management Specialists to allow for more expeditious processing of reunification applications.

6. **Protect unaccompanied children by legislating due process protections that support the *Flores* Settlement Agreement.**
 - Develop legislative solutions that create meaningful due process protections for potential sponsors who are denied custody of an unaccompanied child.
 - Develop legislative solutions that create meaningful due process protections for detained children who are “stepped-up” to higher-security ORR facilities.

Conclusion

The *Flores* Settlement Agreement plays a critical role in protecting the safety and welfare of unaccompanied children in federal immigration custody. Recently, the government has violated the Settlement repeatedly – and the Trump Administration has indicated that it wants to get rid of the Settlement entirely. While *Flores* Counsel and other legal organizations will continue to bring actions to enforce the letter and spirit of the *Flores* Agreement, it is vital that Congress play its role to ensure that the government of the United States lives up to its legal and moral obligations to the children in its care.

Attachments

1. The *Flores* Settlement Agreement
2. Relevant Media
 - *Caregivers for 3,600 Migrant Teens Reportedly Lack Complete Abuse Checks*, CBS NEWS, Dec. 8, 2018, available at <https://www.cbsnews.com/news/caregivers-for-3600-migrant-teens-reportedly-lack-complete-abuse-checks/>.
 - *Florida Shelter Is Scrutinized For The Way It Handles Migrant Children*, NATIONAL PUBLIC RADIO, Feb. 13, 2019, available at <https://www.npr.org/2019/02/13/694175061/florida-shelter-is-scrutinized-for-the-way-it-handles-migrant-children>.
 - *12-year-old immigrant prescribed antidepressants in shelter due to distress over family separation, lawsuit alleges*, WASHINGTON POST, June 29, 2018, available at https://www.washingtonpost.com/investigations/immigrant-minor-distraught-over-family-separation-is-prescribed-antidepressants-in-us-shelter-lawsuit-alleges/2018/06/29/4386420a-7ba7-11e8-93cc-6d3becdd7a3_story.html?utm_term=.3c51febe2666.
 - *Thousands of Migrant Children Could Be Released with Trump's Major Policy Reversal*, TEXAS MONTHLY, Dec. 18, 2018, available at <https://www.texasmonthly.com/news/trump-fingerprint-policy-change-reduce-migrant-children-detention-tornillo/>.

Endnotes

1. Unaccompanied children are children under 18 who arrive at the border without a parent or guardian or who have no parent or legal guardian in the U.S. available to provide care and physical custody. *See* 6 U.S.C. § 279(g)(2).
2. Settlement ¶ 14.
3. Settlement ¶ 11.
4. Settlement ¶ 19.
5. Settlement, Exhibit 1.
6. Settlement ¶ 6.
7. Order Re: Plaintiff's Motion to Enforce Settlement, *Flores v. Lynch*, at 12 (C.D. Cal. July 24, 2015).
8. Settlement ¶ 21.
9. *See Flores v. Lynch*, 212 F. Supp. 3d 907, 914 (C.D. Cal. 2015), *aff'd in part, rev'd in part and remanded*, 828 F.3d 898 (9th Cir. 2016).
10. Settlement ¶ 21.
11. Settlement ¶ 10.
12. Settlement Definition 6; ¶ 19.
13. Settlement ¶ 12B(3).
14. Order Re: Plaintiff's Motion to Enforce Settlement, *Flores v. Johnson*, 212 F. Supp. 3d 864, 877 (C.D. Cal. 2015).
15. Robert Moore, *Thousands of Migrant Children Could Be Released with Trump's Major Policy Reversal*, TEXAS MONTHLY, Dec. 18, 2018, available at <https://www.texasmonthly.com/news/trump-fingerprint-policy-change-reduce-migrant-children-detention-tornillo/>.
16. *See* National Conference of State Legislatures, *The Child Welfare Placement Continuum: What's Best for Children?*, Jan. 5, 2016, available at <http://www.ncsl.org/research/human-services/the-child-welfare-placement-continuum-what-s-best-for-children.aspx>.
17. Casey Family Programs, *What are the Outcomes for Youth Placed in Congregate Care Settings?*, Feb. 5, 2018, available at <https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/>.
18. *See* U.S. Dep't of Health & Human Servs., *State Licensing Specialists*, available at https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspList&rolType=Custom&RS_ID=157&rList=RCL.
19. Order Re: Plaintiff's Motion to Enforce Settlement, *Flores v. Lynch*, at 14 (C.D. Cal. July 24, 2015) (emphasis added).
20. *See* Tex. Child Care Licensing, Health & Human Serv. Comm'n, *Minimum Standards for General Residential Operations*, July 29, 2019, available at https://www.dfps.state.tx.us/Child_Care/documents/Standards_and_Regulations/748_GRO.pdf.
21. Joshua Barajas & Amna Nawaz, *The Tornillo Shelter for Migrant Children was Supposed to Close After 30 Days. Here's why it's still open*, PBS NEWS HOUR, Nov. 29, 2018, available at <https://www.pbs.org/newshour/nation/the-tornillo-shelter-for-migrant-children-was-supposed-to-close-after-30-days-heres-why-its-still-open>.
22. *See* Barry Holman & Jason Ziedenisberg, Justice Policy Institute, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (2006), available at http://www.justicepolicy.org/uploads/justicepolicy/documents/dangers_of_detention.pdf.
23. National Research Council, *REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH*, Washington, DC: The National Academies Press, at 102 (2013).
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