

ORAL ARGUMENT: SEPTEMBER 15, 2026

No. 26-5157

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DIEGO N., *et al.*,

Plaintiffs–Appellants,

v.

UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES, *et al.*,

Defendants–Appellees.

On Appeal from the United States District Court
for the District of Columbia
No. 26-cv-0577
Hon. Carl J. Nichols, U.S. District Judge

BRIEF FOR DEFENDANTS–APPELLEES

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CERTIFICATE AS TO PARTIES, RULINGS UNDER REVIEW, AND RELATED CASES

(A) Parties and Amici

All parties, intervenors, and amici appearing before the district court and in this Court are listed in the Opening Brief for Plaintiffs–Appellants (Doc. #2178174).

(B) Rulings Under Review

References to the rulings at issue appear in the Opening Brief for Plaintiffs–Appellants (Doc. #2178174).

(C) Related Cases

This case has not previously been before this Court or any other court. Counsel for Defendants–Appellees are unaware of any other related cases within the meaning of D.C. Circuit Rule 28(a)(1)(C).

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GLOSSARY OF ABBREVIATIONS

APA	Administrative Procedure Act
CBP	United States Customs and Border Protection
DHS	United States Department of Homeland Security
HHS	United States Department of Health and Human Services
ICE	United States Immigration and Customs Enforcement
INS	United States Immigration and Naturalization Service
ORR	Office of Refugee Resettlement
TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
UAC	Unaccompanied Alien Child(ren)

INTRODUCTION

The Office of Refugee Resettlement (“ORR”) in the U.S. Department of Health and Human Services (“HHS”) has a paramount statutory obligation to “establish policies and programs to ensure that unaccompanied alien children [(‘UAC’)] in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.” William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA”), 8 U.S.C. § 1232(c)(1). As the agency entrusted with the responsibility for caring for the thousands of UAC referred to ORR by other federal agencies under the Homeland Security Act of 2002, 6 U.S.C. § 279, ORR must balance its obligation to protect UAC from human trafficking and exploitation, with promptly reunifying UAC, where possible, with their parents or other suitable sponsors. 8 U.S.C. § 1232(c)(2)(A). Consistent with its statutory mandate, ORR accepts referrals when the referring federal agency transfers custody of an individual determined by those federal agencies to be a UAC. ORR applies the same release requirements to all UAC in its custody, including the Plaintiffs–Appellants (“Plaintiffs”) here.

While Plaintiffs may be frustrated with their return to ORR custody, that does not mean that there is an ORR “reapplication policy,” let alone a policy that endeavors to harm re-referred UAC. Time has not stood still since Plaintiffs were originally released to their previously vetted sponsors in 2023 and 2024. ORR is simply following its generally applicable policies and its statutory and regulatory mandate to ensure that any potential sponsor is *currently* safe and suitable.

The district court carefully analyzed each of Plaintiffs’ claims and correctly denied the motion for a preliminary injunction. Plaintiffs are not likely to succeed on their claims under the Due Process Clause or the Administrative Procedure Act (“APA”). Consistent with due process, ORR’s procedures properly account for Plaintiffs’ limited liberty interests as alien minors and for the public’s interest in ensuring that UAC are not trafficked or placed with otherwise unsafe sponsors. As to the APA, Plaintiffs are not likely to succeed because they have another adequate remedy through habeas and they do not challenge final agency action. In any event, ORR’s policies are reasonable and consistent with ORR’s statutory and regulatory mandates to ensure that a potential sponsor is *currently* safe and suitable.

The district court also did not abuse its discretion in weighing the remaining preliminary injunction factors. Plaintiffs' showing as to irreparable harm does not justify the sweeping mandatory injunction that they seek. And the balance of equities and public interest favor not entering a preliminary injunction.

For these reasons, this Court should affirm.

STATEMENT OF ISSUES

(1) Whether Plaintiffs are likely to succeed on their procedural due process claim when ORR must ensure that UAC in its care are not released to unsafe sponsors.

(2) Whether Plaintiffs are likely to succeed on their APA claims when (a) Plaintiffs could seek release from ORR custody through habeas; and (b) ORR is consistently applying sponsor-vetting policies that Plaintiffs do not otherwise challenge.

(3) Whether the district court correctly denied Plaintiffs' motion for a preliminary injunction as it would impose an entirely new procedural scheme on ORR.

STATUTES AND REGULATIONS

All applicable statutes and regulations are contained in the Addendum to the Opening Brief for Plaintiffs–Appellants, Doc. #2178174 (“Op. Br.”).

STATEMENT OF THE CASE

Under federal statutes and regulations, ORR must receive referrals of UAC from other federal agencies and must vet potential sponsors prior to releasing UAC from ORR custody. Through this lawsuit, four UAC assert that, when UAC are referred to ORR a second time, ORR wrongly requires previous sponsors to reapply to sponsor UAC again. After analyzing Plaintiffs’ due process and APA claims and weighing the preliminary-injunction factors, the district court denied Plaintiffs’ motion for a preliminary injunction.

A. Legal Background

The legal framework governing the federal care and custody of UAC establishes that any time UAC are referred to ORR, the agency must consider the UAC’s current circumstances and verify the potential sponsor’s present suitability prior to release. UAC “may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian *is* capable

of providing for the child’s physical and mental well-being.” 8 U.S.C. § 1232(c)(3)(A) (emphasis added). ORR must conduct certain steps, including background and criminal records checks, “[i]n all cases.” 45 C.F.R. § 410.1202(b)-(c). And ORR must consider the UAC’s “*current* functioning and strengths in conjunction with any risks or concerns.” *Id.* § 410.1202(f) (emphasis added). The legal framework balances the mandate that ORR protect UAC from harm with the requirement that ORR “promptly” place UAC “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A).

1. Statutory Framework

In 2002, Congress enacted the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135, abolishing the Immigration and Naturalization Service (“INS”) and transferring the responsibility for the care and placement of UAC from INS to the Director of ORR. 6 U.S.C. §§ 279(a), (b)(1)(A), (g)(2).

The Homeland Security Act defines a UAC as:

a child who—(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom—(i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.

6 U.S.C. § 279(g)(2). Further, it assigns ORR broad authority over the care and custody of UAC while they are in federal custody due to their immigration status, including coordinating their care and placement, ensuring their best interests in custodial decisions and that they are protected from smugglers, traffickers, and others who might seek to victimize and exploit UAC. *Id.* § 279(b)(1)(A), (b)(2)(A)(ii). These responsibilities are carried out through cooperative agreements and contracts with care providers under ORR policies and oversight. *See id.* § 279(b)(1); 31 U.S.C. § 6305.

Congress enacted the TVPRA to strengthen protections for UAC and support their safe repatriation or appropriate placement. Pub. L. No. 110-457. The statute, consistent with the Homeland Security Act, makes the Secretary of HHS responsible for the care and custody of UAC. 8 U.S.C. § 1232(b)(1). Pursuant to the TVPRA, “any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child.” 8 U.S.C. § 1232(b)(3).

The TVPRA also states that HHS, and other agencies, “shall establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.” 8 U.S.C. § 1232(c)(1). It also provides that UAC “may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child’s physical and mental well-being.” 8 U.S.C. § 1232(c)(3)(A). This safety and suitability determination must “at a minimum, include verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.” *Id.* Thus, the TVPRA is explicit that ORR must prioritize the safety and well-being of UAC while in its care and upon release.

2. Unaccompanied Children Program Foundational Rule

In the Unaccompanied Children Program Foundational Rule, codified at 45 C.F.R. Part 410, ORR established comprehensive regulations governing its UAC program consistent with its statutory

responsibilities. Specifically, the Foundational Rule provides that ORR must release UAC from its custody “[s]ubject to an assessment of sponsor suitability,” 45 C.F.R. § 410.1201(a), a process which starts with an “application package” that “[p]otential sponsors shall complete.” *Id.* § 410.1202(a). The assessment of sponsor suitability includes “review of the potential sponsor’s application package, including verification of the potential sponsor’s identity, physical environment of the sponsor’s home, and relationship to the unaccompanied child, if any, and an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the unaccompanied child.” *Id.* § 410.1202(b). ORR also verifies “the employment, income, or other information provided by the potential sponsor as evidence of the ability to support the child,” *id.* § 410.1202(c), and “[i]n all cases, ORR shall require background and criminal records checks,” which may include a criminal history check based on fingerprints, *id.*

Moreover, the Foundational Rule requires ORR to consider the UAC’s “*current* functioning and strengths in conjunction with any risks or concerns,” including history or risk of being a victim of sex or labor trafficking and history of involvement in the criminal or juvenile justice

system. *Id.* § 410.1202(f) (emphasis added). And ORR must assess “the potential sponsor’s previous and *current* relationship with the unaccompanied child.” *Id.* § 410.1202(d) (emphasis added). The Foundational Rule reinforces congressional intent articulated in the Homeland Security Act and TVPRA that HHS ensure UAC protection from human traffickers and release UAC only to those sponsors capable of protecting their well-being. *Id.* § 410.1003(a), (e)-(f).

While ORR is attempting to identify and vet a sponsor, ORR generally places minors in “standard programs that are not restrictive placements.” *Id.* § 410.1104. Standard programs must be “licensed by an appropriate State agency to provide residential, group, or transitional or long-term home care services for dependent children” or meet the requirements of state licensing that would otherwise be applicable in states that do not license programs that care for UAC. *Id.* § 410.1001. Standard programs must meet a variety of minimum standards and provide numerous services for children. *Id.* §§ 410.1302-.1311.

B. ORR's Release Policies and Practices

1. General Background on Sponsor Vetting

To carry out its statutory and regulatory mandate under the Homeland Security Act, TVPRA, and the Foundational Rule, ORR has developed policies and procedures for identifying and conducting suitability assessments of potential sponsors. These procedures are generally set out in ORR's publicly available UAC Bureau Policy Guide. *See* ORR, UAC Bureau Policy Guide (Apr. 9, 2026), <https://perma.cc/T5UK-HJAC>; JA102-03 (¶¶ 16-17) (discussing the relevant UAC Bureau Policy Guide sections). A full assessment of a potential sponsor's suitability is particularly appropriate because ORR is not a law or immigration enforcement agency and lacks the authority to hold individuals accountable by reassuming care if the sponsor abuses or neglects a child after a UAC has been released from ORR custody. JA101-02 (¶ 15). Rather, ORR only takes children into its custody upon referral by another federal agency, as described in 8 U.S.C. § 1232(b). JA99-100 (¶¶ 7-9). In this regard, ORR is also very different from state child welfare agencies, which typically retain such authority post-placement. JA101-02 (¶ 15). Accordingly, ORR must front-load child safety

considerations in its identity verification and sponsor vetting policies. JA101-02 (¶ 15).

In light of ORR's obligation to protect UAC from smugglers, traffickers, and others who may seek to victimize them, "safe and timely release . . . involves several steps, including: the identification of sponsors; sponsor application; interviews; the assessment (evaluation) of sponsor suitability, including verification of the sponsor's identity and relationship to the child (if any), background checks, and in some cases home studies; and post-release planning." JA102 (¶ 16). There are four categories of potential sponsors: (1) Category 1, consisting of parents or legal guardians, including qualifying step-parents that have legal or joint custody of the child or teen; (2) Category 2, consisting of siblings, grandparents, or other immediate relatives (such as aunts, uncles, first cousins), and includes biological relatives, relatives through marriage, and half-siblings; (3) Category 3, consisting of other sponsors, such as distant relatives, unrelated adult individuals, or an institutional/organizational sponsor; and (4) Category 4, no sponsor identified. JA102 (¶ 16). ORR conducts suitability assessments of any potential sponsor (with the assistance of a care provider), including a

review of the potential sponsor's strengths, resources, risk factors, and special concerns within the context of each child's needs, strengths, risk factors, and relationship to the sponsor. JA110 (§ 31).

A potential sponsor must complete a sponsorship application package, provide unexpired government-issued identification documentation for the sponsor and any other adults living in the household or identified in a sponsor care plan, and, along with any adult living in his or her household, undergo a background check. JA102 (§ 17). All potential sponsors must also submit proof of address, income, sponsor-child relationship, individual taxpayer identification number or social security number, and criminal history documents (if applicable). JA102 (§ 17); UAC Bureau Policy Guide § 2.2.4. Additionally, in most circumstances, a home study, which consists of interviews, a home visit, and a written report containing the home-study case worker's findings, is performed. JA110 (§ 31); UAC Bureau Policy Guide § 2.4.2.

Once the assessment of the potential sponsor is complete, the care provider makes a release recommendation. JA110 (§ 32). ORR makes the final release decision. JA110-11 (§ 32). ORR denies release if: (1) the potential sponsor is not willing or able to provide for the child's physical

or mental well-being; (2) the potential sponsor is not willing to complete the mandatory fingerprint check; (3) the physical environment of the home presents a risk to the child's safety or well-being; or (4) release of the UAC would present a risk to him or herself, the sponsor, household, or community. JA111 (¶ 33). If ORR denies the application of a parent, legal guardian, or close relative potential sponsor, the denied potential sponsor may appeal that decision through a detailed process in front of a neutral administrative body within HHS. 45 C.F.R. § 410.1206; JA111 (¶ 34).

2. Concerns About ORR's Sponsor Vetting in 2022-2024 and Enhancements to Sponsor Vetting in 2025

From 2022 through 2024, multiple entities identified serious flaws in ORR's sponsor vetting practices. In December 2022, the Permanent Subcommittee on Investigations within the U.S. Senate Committee on Homeland Security and Governmental Affairs published a report detailing the inadequate treatment of UAC in federal care and the insufficient safeguards to ensure they are not trafficked or abused following their release. JA104 (¶ 20). In mid-2023, ORR established an Integrity & Accountability Team to detect and prevent fraud. JA103

(¶ 18). The Integrity & Accountability Team identified several instances of fraudulent sponsorship applications, document falsifications, and patterns of human trafficking and exploitation. JA103 (¶ 18). For example, the Team identified 10 UAC who were released to sponsors who committed intentional document fraud in October 2024. JA103 (¶ 18). Similarly, in February 2024, the HHS Office of Inspector General published a report titled *Gaps in Sponsor Screening and Follow-Up Raise Safety Concerns for Unaccompanied Children*, in which the Inspector General detailed serious defects in ORR's sponsor-screening practices. JA104-05 (¶ 21); JA121-82.

Shortly after President Trump's 2025 inauguration, ORR's then-acting director issued a memorandum outlining immediate changes to address ongoing concerns with gaps in ORR's sponsor-vetting process, as well as fraud and trafficking. JA105-06 (¶ 23); JA183-93. ORR began requiring all potential sponsors, their adult household members aged 18 and above, and all adult caregivers identified in a Sponsor Care Plan to undergo national fingerprint-based FBI background checks. JA106-07 (¶ 25). ORR also began requiring the use of only unexpired and legible photocopies or high-resolution digital scans/photos of identification

documents to establish identity. JA106-07 (¶ 25). To further address identified gaps in the sponsor vetting process, ORR updated its UAC Bureau Policy Guide Sections 2.2.4 (concerning required supporting documents for sponsor applications to include unexpired identity documents and proof of income), 2.7.4 (concerning lack of fingerprinting and proof of income as bases for denial of release requests), and 5.8.2 (concerning fraud reporting). JA107 (¶ 26); JA109-10 (¶ 29); JA194-205.

3. Return of Previously Released UAC to ORR Custody

Prior to February of 2025, it was extremely rare for a federal agency to re-refer UAC to ORR after the UAC had previously been in ORR custody and released to a sponsor. *See* JA75-76 (¶ 5); JA81 (¶ 4). The Homeland Security Act, the TVPRA, and the Foundational Rule do not provide different procedures for UAC who are re-referred to ORR after previously being in ORR custody and released to a sponsor. ORR currently does not have a re-referral policy for children who are referred again to ORR by the U.S. Department of Homeland Security (“DHS”) after a previous release. JA112 (¶ 37).

Because the re-referrals began to happen more frequently in the last year, ORR is in the process of reviewing cases of children

apprehended in the interior United States who had previously been in the custody of a parent or legal guardian in the United States and where that same parent or legal guardian is again seeking to sponsor the child. JA112-13 (¶ 38). ORR requires background checks of all sponsors including sponsors of children re-referred to custody. JA112-13 (¶ 38). ORR will determine as part of this review of re-referred cases, whether the results of these background checks reveal the parent or legal guardian may be unfit or a danger to the child, such that additional vetting may be required in line with ORR's process for vetting new sponsors. JA112-13 (¶ 38).

C. This Lawsuit

1. Complaint and Motion for Preliminary Injunction

Plaintiffs initiated this lawsuit on February 23, 2026, by filing their Complaint, *Diego N. v. U.S. Dep't of Health & Hum. Servs.*, No. 1:26-cv-00577-CJN (D.D.C. Feb. 23, 2026), ECF No. 1.¹ In their Complaint, Plaintiffs allege that they are UAC who “were previously in ORR custody, determined to be eligible for release, and released to a suitable sponsor who was vetted and approved by ORR pursuant to the TVPRA.” *Id.* ¶ 8.

¹ All ECF cites pertain to the district court docket.

Plaintiffs assert that, after they were released from ORR custody, DHS detained them and re-referred them to ORR. *Id.* Plaintiffs contend that ORR has a “blanket policy of requiring all previously approved sponsors to reapply for sponsorship.” *Id.* Plaintiffs argue that “ORR applies this blanket policy to all children and does not make any individualized determination that the child was re-referred to ORR because of any concern related to the child’s safety or wellbeing.” *Id.* ¶ 35. Plaintiffs do not allege when ORR supposedly adopted this policy. Plaintiffs also do not identify any document or regulatory action taken to adopt the alleged policy.

Plaintiffs contend that DHS has apprehended and re-referred them to ORR for “many different reasons that do not necessarily implicate sponsor suitability.” *Id.* ¶ 50. Plaintiffs do not, however, challenge the legitimacy of DHS’s arrests. JA212 (“We’re not suing DHS. We’re not challenging the initial arrest.”).

Plaintiffs bring three causes of action. In Count I, Plaintiffs allege that ORR’s purported reapplication policy deprives Plaintiffs of liberty without procedural due process in violation of the U.S. Constitution’s Fifth Amendment. Compl. ¶¶ 87-92. In Count II, Plaintiffs contend that

ORR's purported reapplication policy is contrary to law and beyond statutory authority in violation of the APA. *Id.* ¶¶ 93-101. In Count III, Plaintiffs assert that ORR's purported reapplication policy is arbitrary and capricious in violation of the APA. *Id.* ¶¶ 102-07.

Plaintiffs moved for a preliminary injunction and requested provisional class certification on February 24, 2026. Pls.' Mot. for Prelim. Inj., ECF No. 10. Plaintiffs asked the court to preliminarily enjoin the alleged "reapplication policy" and to require ORR to conduct two new administrative processes. Proposed Order, ECF No. 10-2. First, Plaintiffs request that ORR be ordered "to make an individualized determination within 72 hours of the class member's re-referral to ORR" as to whether material changed circumstances justify reconsidering the "prior sponsor approval decision." *Id.* at 2. Second, Plaintiffs ask that ORR be required to provide all class members "with a hearing before a neutral and detached decisionmaker within seven (7) days of the class member's re-referral to ORR custody or within seven (7) days of this order if the class member is already in custody." *Id.* At these new administrative hearings, ORR would bear the burden of proof by clear and convincing evidence to show that the prior sponsor "is not capable of providing for the child's

physical and mental well-being.” *Id.* at 3. Plaintiffs propose detailed procedural requirements for the new hearings. *Id.* at 2-4.

2. Plaintiffs

Four UAC Plaintiffs initiated this lawsuit: Diego N., Renesme R., Mario C., and Benito S. As of the date of this appeal, only one Plaintiff remains in ORR custody; the others have been released such that their alleged injuries have become moot. Also, as of the date of this appeal, no class has been certified before the district court.

Diego N. In October 2024, Diego N. arrived in the United States, spent time in ORR custody, and was released to his father Alexis N. JA114-15 (¶ 45). In November 2025, U.S. Customs and Border Protection (“CBP”) in DHS detained Diego N. and referred him to ORR. JA114-15 (¶ 45). At the time of his encounter with CBP, Diego N. admitted to being a scout for alien smuggling, but he later denied making that statement. JA114-15 (¶ 45). When the Complaint was filed, Diego N. was fourteen years old and in ORR custody at a shelter. JA114-15 (¶ 45).

Alexis N. applied to sponsor Diego N. again. JA114-15 (¶ 45). ORR took several steps to ensure that Alexis N. would be a suitable sponsor for Diego N. Among other actions, on December 17, 2025, ORR

commenced a home study due to Diego N.'s criminal history, his history of controlled substance uses and inappropriate contact with an adult while in his father's care, and history of making gang-related comments and drawings while in ORR care. JA114-15 (¶ 45). The home study was essential to assess whether concerning behavioral or safety concerns stemmed from Diego N.'s home life. JA114-15 (¶ 45). On December 30, 2025, ORR completed Diego N.'s home study, and a positive recommendation was made. JA114-15 (¶ 45). On February 6, 2026, Alexis N. was cleared on his internet criminal and sex abuse checks. JA114-15 (¶ 45). On March 12, 2026, ORR released Diego N. to the custody of his father. JA257; Decl. of Toby Biswas ¶ 3, ECF No. 45-1. His claims are now moot.

Renesme R. After Renesme R. arrived in the United States, ORR released her to her father Michael R. in December 2023. JA115-16 (¶ 46). DHS detained Renesme R. in November 2025 during a DHS immigration enforcement operation. JA115-16 (¶ 46). DHS then referred her to ORR care. JA115-16 (¶ 46). When the Complaint was filed, Renesme R. was 16 years old and in ORR custody at a shelter. JA115-16 (¶ 46).

Michael R. initially did not apply to sponsor Renesme R. again. JA115-16 (¶ 46); JA51-52 (¶ 11). ORR contacted Renesme R.'s paternal aunt as a potential sponsor, and the aunt agreed to commence the sponsorship process. JA115-16 (¶ 46). In January 2026, ORR informed Renesme R. that her aunt had completed the sponsorship application but that ORR was still waiting for her to submit proof of her address and income, her fingerprinting and home study results were still pending, and ORR needed in-person verification of her identity documents. JA115-16 (¶ 46). In February 2026, Renesme's aunt withdrew her sponsorship application. JA115-16 (¶ 46). ORR then proceeded to commence the sponsorship process with Renesme's father Michael R. with his agreement. JA115-16 (¶ 46); JA16 n.2. On March 25, 2026, ORR released Renesme R. to the custody of Michael R. Decl. of Toby Biswas ¶ 4, ECF No. 45-1. Her claims are now moot.

Mario C. ORR previously released Mario C. to his mother Marisol C. in December 2023 after Mario C. arrived in the United States. JA116-18 (¶ 47). In November 2025, Mario C. was cited for theft (stolen vehicle) and spent three nights in jail before being detained by U.S. Immigration and Customs Enforcement ("ICE"). JA116-18 (¶ 47). ICE referred Mario

C. to ORR. JA116-18 (¶ 47). When the Complaint was filed, Mario C. was seventeen years old and in ORR custody at a shelter. JA116-18 (¶ 47).

Between November of 2025 and February of 2026, ORR had several conversations with Mario C.'s mother about sponsorship. JA116-18 (¶ 47). Mario C.'s mother confirmed her interest in sponsorship but declined sponsorship due to the requirements. JA116-18 (¶ 47). In February 2026, Mario C.'s mother identified a new potential sponsor who she alleged was her third cousin. JA116-18 (¶ 47). ORR later learned that the supposed third cousin is not related at all and is, instead, a family friend. JA116-18 (¶ 47). Mario's mother was contacted on March 5, 2026, to revisit sponsorship. JA116-18 (¶ 47). On March 28, 2026, ORR released Mario C. to the custody of his mother. Decl. of Toby Biswas ¶ 5, ECF No. 45-1. His claims are now moot.

Benito S. ORR previously released Benito S. to his aunt in August 2023 after he arrived in the United States. JA118-19 (¶ 48). He was admitted to ORR care for a second time in December 2025, after local law enforcement cited him for driving without a license and following too close. JA118-19 (¶ 48). ICE was contacted to verify Benito S.'s immigration status. JA118-19 (¶ 48). After Benito S. posted bond, he was

transported to ICE. JA118-19 (¶ 48). When the Complaint was filed, Benito S. was 17 years old and in ORR custody. JA118-19 (¶ 48).

Benito S.'s aunt told ORR that she will not be able to sponsor Benito S. due to financial and limiting circumstances, that she consulted with family friends to see if anyone is willing to sponsor Benito S., and that there was no identified sponsor at this time. JA118-19 (¶ 48). Benito S. was admitted to a long-term foster care group home in March 2026. JA118-19 (¶ 48). Benito S. is the only Plaintiff who remains in ORR custody.

3. April 30, 2026 Order Denying Plaintiffs' Motion for a Preliminary Injunction

On April 30, 2026, the district court denied Plaintiffs' motion for a preliminary injunction. JA11-36. The district court held that Plaintiffs were unlikely to succeed on their procedural due process claim because Plaintiffs could not show a risk of erroneous deprivation of their liberty interests considering the process that the government is already providing. JA22-23. Additionally, when it came to assessing the availability of APA review, the district court ruled that Plaintiffs' claims were likely foreclosed because habeas is "the most appropriate relief for Plaintiffs." JA27. The district court also found that "Plaintiffs do not

appear likely to show that ORR is acting outside its statutory authorization.” JA31. In its analysis, the district court observed that “[r]equiring sponsors to submit new applications . . . is the agency’s choice to make so long as it comports with other constitutional limits.” JA31. Lastly, as to Plaintiffs’ claim that ORR is acting arbitrarily and capriciously, the district court noted that ORR’s “decision to require previously approved sponsors to resubmit new applications may err on the side of ‘providing safe and secure placements’ at the expense of ‘prompt[ness],’ but the Court cannot say at this stage that ORR’s decision is likely so unreasonable that it constitutes arbitrary agency action.” JA34 (alteration in original) (quoting 8 U.S.C. § 1232(c)(2)(A)).

Finally, the district court weighed the remaining preliminary-injunction factors, holding that they “also do not weigh in favor of enjoining the alleged policy.” JA34. The district court observed that, although Plaintiffs had alleged irreparable injuries, that harm is likely insufficient on its own to warrant a preliminary injunction, especially because Plaintiffs have an available remedy through habeas corpus. JA35. The district court then held that the balance of equities and the public interest do not favor issuing a preliminary injunction because

Plaintiffs are not likely to succeed on the merits and because the scope of Plaintiffs' requested relief would be in tension with the ordinary judicial deference to Executive Branch decisions in the immigration context. JA35-36.

SUMMARY OF ARGUMENT

The district court properly denied Plaintiffs' motion for a preliminary injunction because Plaintiffs are not likely to succeed on their claims, their showing of irreparable harm is insufficient to justify the sweeping mandatory injunction that they seek, and the public interest favors permitting ORR to vet potential sponsors thoroughly in accord with ORR's statutory and regulatory responsibilities.

Plaintiffs are not likely to succeed on their procedural due process claim under the factors identified in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). First, Plaintiffs have limited private liberty interests because they are juveniles who are always in some form of custody and are aliens who are subject to the political branches' broad authority in regulating this country's relationship with aliens.

Second, ORR's current procedures do not unduly risk an erroneous deprivation. Plaintiffs are or were in government custody because DHS

arrested them—arrests that Plaintiffs do not challenge. Pursuant to the TVPRA, DHS transferred Plaintiffs to ORR, and ORR began trying to gather current information to vet potential sponsors. The time that UAC spend in ORR custody is an acceptable consequence of the need to vet sponsors for UAC's safety, not an erroneous deprivation. Relatedly, Plaintiffs have not shown that their proposed substitute procedures would provide significant benefit.

Third, the societal cost and administrative burden of Plaintiffs' proposed procedures would outweigh any benefit. Plaintiffs' proposal for a new fast-track procedure would undermine the government's interest in preventing release to an unsafe sponsor. Plaintiffs' proposal would also require ORR to violate the TVPRA and Foundational Rule, both of which require certain steps and vetting based on current circumstances. And Plaintiffs' procedures would introduce administrative burdens for ORR. In sum, Plaintiffs are unlikely to succeed on their due process claim.

Next, Plaintiffs are not likely to succeed on their APA claims. APA review is unavailable because Plaintiffs have an adequate remedy in court through a petition for habeas corpus. Review is also unavailable because Plaintiffs do not challenge final agency action. On the merits,

Plaintiffs fail to show that ORR is acting contrary to law. ORR is following its statutory and regulatory mandates to place UAC promptly while also ensuring that UAC are not released to unsafe sponsors. Moreover, ORR is not acting arbitrarily and capriciously by following its generally applicable sponsor-vetting procedures to ensure UAC's safety.

Because Plaintiffs are not likely to succeed on their claims, Plaintiffs are also unlikely to show irreparable harm. ORR's custody of UAC is lawful. Even if Plaintiffs have shown irreparable harm, it is insufficient to warrant the sweeping mandatory injunction that they seek. A preliminary injunction is especially unwarranted because Plaintiffs could have sought relief through habeas.

Last, the district court did not abuse its discretion in weighing the balance of harms and the public interest. A mandatory injunction requiring ORR to adopt Plaintiffs' proposed procedures would contravene the traditional judicial deference to the Executive Branch in immigration matters and would risk the release of UAC to unsafe sponsors.

STANDARD OF REVIEW

When reviewing a denial of a preliminary-injunction motion, this Court reviews "a district court's legal conclusions de novo." *Clevinger v.*

Advoc. Holdings, Inc., 134 F.4th 1230, 1233-34 (D.C. Cir. 2025). This Court reviews “any weighing of the preliminary injunction factors for abuse of discretion.” *Id.* And this Court accepts “a district court’s factual findings unless they are clearly erroneous.” *Id.*

ARGUMENT

A preliminary injunction is an “extraordinary and drastic remedy.” *Munaf v. Geren*, 553 U.S. 674, 689 (2008) (citation modified). A party seeking such relief “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. NRDC*, 555 U.S. 7, 20 (2008). “[C]ourts are institutionally wary of granting relief that disrupts, rather than preserves, the status quo, especially when that relief cannot be undone if the non-movant ultimately wins on the merits.” *Singh v. Berger*, 56 F.4th 88, 95 (D.C. Cir. 2022). When a movant requests a mandatory injunction, courts must weigh the “risk that the relief requested will cause unusual disruption if granted in error.” *Id.* at 97.

The district court correctly held that Plaintiffs are not likely to succeed on their claims and correctly weighed the preliminary-injunction

factors. Plaintiffs' claims conflict with the authority that Congress vested in ORR over the care, custody, and release of UAC to suitable sponsors. ORR is acting consistently with the Constitution, statutes and regulations. The agency "should be free to fashion [its] own rules of procedure and to pursue methods of inquiry capable of permitting [it] to discharge [its] multitudinous duties." *Vt. Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 543 (1978) (citation modified). Plaintiffs' attempts to interfere with ORR's statutory mandates and discretion to implement its own rules are unavailing. This Court should affirm.

I. Plaintiffs are not likely to succeed on their procedural due process claim.

Plaintiffs are not likely to succeed on their procedural due process claim because Plaintiffs have weak private liberty interests, ORR already provides adequate process, and Plaintiffs' proposed procedures could be more burdensome than beneficial. The Due Process Clause of the Fifth Amendment states that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. Amend. V. To bring a procedural due process claim, "the plaintiff must show the Government deprived her of a liberty or property interest to which she had a legitimate claim of entitlement, and that the procedures attendant upon

that deprivation were constitutionally insufficient.” *Roberts v. United States*, 741 F.3d 152, 161 (D.C. Cir. 2014) (citation modified). “A cognizable liberty or property interest is essential because process is not an end in itself.” *Id.* (citation modified).

“If the plaintiff has been deprived of a protected interest,” this Court then considers “whether the procedures used by the Government in effecting the deprivation comport with due process.” *Ralls Corp. v. Comm. on Foreign Inv. in U.S.*, 758 F.3d 296, 315 (D.C. Cir. 2014) (citation modified). Due process requires “the opportunity to be heard at a meaningful time and in a meaningful manner.” *Jifry v. F.A.A.*, 370 F.3d 1174, 1183 (D.C. Cir. 2004) (citation modified). “It is well settled that the requirements of due process are flexible and highly dependent on context.” *Al-Hela v. Biden*, 66 F.4th 217, 237 (D.C. Cir. 2023) (en banc). When resolving procedural due process claims in the administrative context, courts generally weigh three factors:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Jifry, 370 F.3d at 1183 (quoting *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)); see *Al-Hela*, 66 F.4th at 228-29.

Here, Plaintiffs do not have strong liberty interests given their age and lack of lawful immigration status. Plaintiffs' private interests do not justify additional procedures when weighed against the government's interests.

A. Plaintiffs allege, at best, a weak liberty interest.

Plaintiffs allege that they have three cognizable liberty interests: (1) family integrity; (2) personal liberty; (3) and "their prior release under the TVPRA." Op. Br. 25. To resolve the due process claim, this Court must carefully assess the "precise nature of the private interest" that Plaintiffs assert. *Lehr v. Robertson*, 463 U.S. 248, 256 (1983). The district court correctly held that Plaintiffs' "interests are limited by their status as both children and illegal aliens." JA19-20. Far from being "unfounded," Op. Br. 26, the district court's conclusion was directly based on holdings of the Supreme Court, see JA20 (citing *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Zadvydas v. Davis*, 533 U.S. 678, 718 (2001) (Kennedy, J., dissenting); *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976)).

1. Plaintiffs' interest in "family integrity" does not equal a constitutional right for an alien to be released to a family member in the United States. "For reasons long recognized as valid, the responsibility for regulating the relationship between the United States and our alien visitors has been committed to the political branches of the Federal Government." *Flores*, 507 U.S. at 305 (quoting *Mathews v. Diaz*, 426 U.S. at 81). "Over no conceivable subject is the legislative power of Congress more complete." *Id.* (citation modified). For that reason, "in the exercise of its broad power over immigration and naturalization, Congress regularly makes rules that would be unacceptable if applied to citizens." *Id.* at 305-06 (citation modified).

The Supreme Court in *Flores* did not have occasion to rule on whether there is a constitutional release right for alien minors seeking to go to the custody of parents, legal guardians, or close relatives. *Id.* at 302. But the well-settled principle that "the responsibility for regulating the relationship between the United States and our alien visitors has been committed to the political branches of the Federal Government" suggests that there is no such right. *Id.* at 305 (quoting *Mathews v. Diaz*, 426 U.S. at 81). Aliens do not have a constitutional right to enter the

United States to reside with their family members. *Cf. Dep't of State v. Muñoz*, 602 U.S. 899, 910-12 (2024) (“[T]he through line of history is recognition of the Government’s sovereign authority to set the terms governing the admission and exclusion of noncitizens. And Muñoz points to no subsidiary tradition that curbs this authority in the case of noncitizen spouses.”). And there is no “substantive due process right to family unity in the context of immigration detention pending removal.” *Reyna as next friend of J.F.G. v. Hott*, 921 F.3d 204, 210-11 (4th Cir. 2019). Because no right of family unity exists in that context, the Fourth Circuit in *Reyna* also rejected the plaintiffs’ procedural due process claim based on that alleged right. *Id.* at 211. The Supreme Court and D.C. Circuit cases that Plaintiffs principally rely on do not address the context of alien minors at all, much less the specific asserted right for an alien minor to be released from government custody into the United States to live with a family member. *See* Op. Br. 26-28 (citing cases). Plaintiffs have no interest, or at best a weak interest, in family unity given their alienage.

2. Plaintiffs lack a cognizable personal liberty interest, or possess only a weak private interest, because they are aliens never

admitted to the United States and are minors placed in non-secure settings. As discussed above, Plaintiffs' liberty interest is subject to Congress's "broad power over immigration and naturalization." *Flores*, 507 U.S. at 305-06; *see also DHS v. Thuraissigiam*, 591 U.S. 103, 138 (2020) ("[A]s to foreigners who have never been naturalized, nor acquired any domicile or residence within the United States, nor even been admitted into the country pursuant to law, the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law." (citation modified)).

In addition, Plaintiffs have a limited interest in physical liberty because they are minors placed in non-secure group homes or foster care. In *Flores*, the Supreme Court held that the "freedom from physical restraint' . . . is not at issue in this case. Surely not in the sense of shackles, chains, or barred cells, given the Juvenile Care Agreement." 507 U.S. at 302. Under the Juvenile Care Agreement, minors were placed in facilities "that meet state licensing requirements for the provision of shelter care, foster care, group care, and related services to dependent children, and are operated in an open type of setting without a need for extraordinary security measures." *Id.* at 298 (citation modified). The

Supreme Court found that “[l]egal custody’ rather than ‘detention’ more accurately describes the reality of the arrangement.” *Id.*

As relevant here, ORR usually places minors in “standard programs that are not restrictive placements.” 45 C.F.R. § 410.1104. Standard programs must be “licensed by an appropriate State agency to provide residential, group, or transitional or long-term home care services for dependent children” or meet the requirements of state licensing that would otherwise be applicable in states that do not license programs that care for UAC. 45 C.F.R. § 410.1001. Standard programs must meet a variety of minimum standards and provide numerous services for children. 45 C.F.R. §§ 410.1302-.1311. Thus, “[l]egal custody’ rather than ‘detention’ more accurately describes the reality of the arrangement.” *Flores*, 507 U.S. at 298. Although ORR placements impose rules and structure on minors, Plaintiffs cannot claim a “right to come and go at will” because, as juveniles, they “are always in some form of custody.” *Id.* at 302 (citation modified); see *Hutchins v. District of Columbia*, 188 F.3d 531, 538-39 (D.C. Cir. 1999) (“Unemancipated minors lack some of the most fundamental rights of self-determination—including even the right

of liberty in its narrow sense, *i.e.*, the right to come and go at will.” (citation modified)).

Plaintiffs’ analogy to criminal parolees is misdirected. Op. Br. 35. As an initial matter, the analogy is inapt because Plaintiffs do not challenge DHS’s decisions to arrest them and hold them in government custody instead of their parents’ custody. JA212. In addition, even if Plaintiffs have *some* protected liberty interest, their status as alien minors is relevant to the *Mathews* factors and weighs against a conclusion that Plaintiffs are likely to succeed on their due process claim.

3. Contrary to Plaintiffs’ claim, the TVPRA does not provide them “a legitimate claim of entitlement’ in their continued placement with a sponsor.” Op. Br. 31; *compare* 8 U.S.C. § 1232(c)(2)(A). Procedural due process “does not protect everything that might be described as a ‘benefit.’” *Town of Castle Rock v. Gonzales*, 545 U.S. 748, 756 (2005). To have a “property interest” in a benefit created by statute, an individual must “have a legitimate claim of entitlement to it.” *Id.* (quoting *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 577 (1972)). The Supreme Court holds that “a benefit is not a protected entitlement if government officials may grant or deny it in their discretion.” *Id.* Moreover, “state-

created *procedures* do not create such an entitlement where none would otherwise exist.” *Doe by Fein v. District of Columbia*, 93 F.3d 861, 868 (D.C. Cir. 1996) (per curiam), *certified question answered*, 697 A.2d 23 (D.C. 1997).

Here, Plaintiffs assert that the following provision of the TVPRA grants them an enforceable right to placement in their previous sponsors’ custody:

Subject to section 279(b)(2) of Title 6, an unaccompanied alien child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is in the best interest of the child. In making such placements, the Secretary may consider danger to self, danger to the community, and risk of flight.

8 U.S.C. § 1232(c)(2)(A); *see* Op. Br. 33. That provision does not create a legitimate claim of entitlement because it leaves the placement decision ultimately within the government’s discretion. The statute sets out general standards that do not require ORR to release a minor to any particular sponsor. ORR may also decide that the least restrictive setting in the best interest of the child is to remain in ORR custody. “Such indeterminacy is not the hallmark of a duty that is mandatory. Nor can someone be safely deemed ‘entitled’ to something when the identity of the alleged entitlement is vague.” *Town of Castle Rock*, 545 U.S. at 763.

Indeed, the D.C. Circuit has recognized that “release to a sponsor is at the discretion of the government.” *J.D. v. Azar*, 925 F.3d 1291, 1332 (D.C. Cir. 2019).

Moreover, nothing in the statutory text says that ORR must consider the prior sponsor to still be the least restrictive setting in the best interest of the child despite the passage of time. Thus, the TVPRA does not provide a basis for Plaintiffs’ due process claim.

Plaintiffs incorrectly allege that “ORR’s regulations and policies further strengthen Plaintiffs’ legitimate claim of entitlement.” Op. Br. 33. Plaintiffs fail to point to any specific regulation or policy that creates such an entitlement. Plaintiffs merely observe that “ORR has disclaimed continued custodial authority after release.” *Id.* at 34. While true, that statement says nothing about what ORR must do when another federal agency arrests UAC and transfers them to ORR.

Overall, Plaintiffs have alleged, at most, a weak liberty interest that does not require ORR to provide additional procedures.

B. Plaintiffs do not show that the current procedures unduly risk an erroneous deprivation of a protected right or that the proposed substitute procedures would add significant value.

ORR's current vetting process already provides minors an opportunity to be released from ORR custody, 45 C.F.R. § 410.1201(a), provides sponsors the opportunity to prove their suitability, *id.* § 410.1202, and allows parents, legal guardians, or close relatives to appeal the denial of their sponsor applications, *id.* §§ 410.1205(c)-(e), 410.1206. ORR's procedures require ORR or the care provider program to "make and record the prompt and continuous efforts on its part towards family unification and the release" of each child. *Id.* § 410.1203(a). ORR's vetting process is a crucial safety assessment designed specifically to address the vulnerabilities of UAC while in its care. *See* 45 C.F.R. § 410.1003(a). The depth of ORR's vetting reflects the reality that the life circumstances of both sponsors and UAC are fluid. Changes in household composition, financial stability, or a child's specific needs necessitate contemporaneous screenings to prevent release into unstable environments. *See id.* § 410.1202(b)-(i) (requiring ORR to assess the *current* facts prior to approving a sponsor).

Plaintiffs err by ignoring the unique immigration context in which this case arises. Many of Plaintiffs' arguments rest on analogies to child-welfare and parole-revocation cases. Op. Br. at 37-40. But these analogies are inapt. ORR has not gone into the community and removed children from the care of their parents. Nor has ORR revoked something like parole. Rather, a separate federal agency, DHS, arrested Plaintiffs to enforce immigration laws. Plaintiffs do not challenge the lawfulness of those arrests. JA212. Congress, exercising its authority over immigration, directed DHS to transfer custody of UAC to ORR and directed ORR to determine whether a proposed sponsor "is capable" of providing for the child and "has not engaged in any activity that would indicate a potential risk to the child" prior to release. 8 U.S.C. § 1232(b)(3), (c)(3)(A). Congress's scheme is lawful as to aliens, even if it might not be if applied to U.S. citizens. *See Flores*, 507 U.S. at 305-06.

Notably, Plaintiffs do not challenge the appropriateness and necessity of ORR's vetting process generally when applied to UAC who are in ORR custody for the first time. JA211-12. Rather, Plaintiffs challenge that process as applied to them. Plaintiffs believe the vetting is too slow. Op. Br. 39. But Plaintiffs do not show that they have a

constitutionally protected interest in an adjudication within a specific timeframe. Thus, a temporary period of custody is not an erroneous deprivation of a protected right while ORR vets the current circumstances in accord with the TVPRA and the Foundational Rule.

Plaintiffs next argue that ORR should not require previous sponsors to prove their suitability. Op. Br. 39. Under the TVPRA and Foundational Rule, ORR requires sponsors to provide information showing their suitability. *See* 8 U.S.C. § 1232(c)(3)(A); 45 C.F.R. §§ 410.1201(a), 1202(a)-(b). Plaintiffs do not question this requirement as to first-time sponsors. Indeed, the requirement is undoubtedly a valid exercise of Congress's and the Executive Branch's authority over immigration. *See Flores*, 507 U.S. at 305-06. Congress did not exempt second-time referrals from the required vetting process, and Plaintiffs have no constitutional right to demand being released into the United States in violation of the statutory and regulatory scheme.

Plaintiffs also allege that the vetting process may erroneously result in the denial of release to a previously approved sponsor and that previous sponsors may choose not to apply. Op. Br. 40-41. But there is no erroneous deprivation of a right to release or family unity if ORR cannot

determine that the potential sponsor is currently suitable. Neither due process nor the TVPRA requires release to a potential sponsor who cannot satisfy the vetting procedures that ORR has determined are necessary to fulfill its statutory obligations, protect children, and prevent crime. The sponsors were previously approved under vetting procedures from 2023 and 2024. *See* JA114-19 (§§ 45-48). ORR has found it necessary since the prior release of these Plaintiffs to enhance its vetting procedures. *See* JA103-10 (§§ 18-30). That a sponsor was previously approved does not mean that the sponsor is currently suitable under the standards that ORR has determined are necessary to protect children.

Next, contrary to Plaintiffs' argument, the district court correctly noted that the availability of habeas petitions mitigates any remaining constitutional concerns. JA23; *see* Op. Br. 41-42. An adequate remedy in court can lessen the procedures that an agency is required to provide administratively. *Cf. Ingraham v. Wright*, 430 U.S. 651, 676-78 (1977) (holding that additional administrative safeguards prior to corporal discipline in schools were not constitutionally required because, among other reasons, of the "civil and criminal sanctions for abuse"). Plaintiffs have not established an undue risk of erroneous deprivations.

Plaintiffs also do not show that their proposed substitute procedures would be valuable enough to outweigh their costs. Plaintiffs request “highly specific mandatory relief,” which includes requiring ORR to provide a “hearing before a neutral and detached decision-maker’ within seven days of a class member’s re-referral to ORR custody.” JA17; JA22. To the extent Plaintiffs suggest that DHS should not have arrested them and removed them from their previous sponsor’s custody, the proposed new procedures would do nothing to stop that alleged harm. Plaintiffs have not sued DHS, and DHS would not be subject to any of Plaintiffs’ new procedures.

In addition, the new procedures may not lead to a faster release in many cases. The named Plaintiffs show that changed circumstances will often warrant a thorough investigation of the sponsorship situation. For example, Mario C. and Benito S. were referred to ORR custody after contact with local law enforcement. JA116-19 (¶¶ 47-48). Similarly, ORR had to evaluate carefully Diego N.’s situation when ORR became aware of his “criminal history while in his father’s care, history of controlled substance use while in his father’s care, history of inappropriate contact

with an adult while in his father's care, and history of making gang-related comments and drawings while in ORR care.”² JA114-15 (¶ 45).

Thus, the second *Mathews* factor does not support Plaintiffs' claim.

C. The government's interests weigh against the judicial creation of new procedural requirements.

The final factor of the *Mathews* test looks to the “administrative burden and other societal costs that would be associated with requiring” Plaintiffs' proposed procedures, “as a matter of constitutional right.” *Mathews*, 424 U.S. at 347. Requiring Plaintiffs' proposed procedures would harm the government's important interests in multiple ways.

First, bypassing the determination of whether the potential sponsor is currently suitable would undermine the government's interest in preventing release to an unsafe sponsor where a UAC could be abused, neglected, endangered, or trafficked. ORR must ensure that potential sponsors are, in fact, suitable and that UAC “are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity.” 6 U.S.C.

² It is not clear that ORR would have become aware of those important facts if it had proceeded on the timeline and procedures that Plaintiffs want this Court to require.

§ 279(b)(2)(A)(ii). And ORR must ensure that UAC are “placed in a setting in which they are not likely to pose a danger to themselves or others.” *Id.* § 279(b)(2)(A)(iii). Further, ORR must determine that a sponsor “is capable of providing for the child’s physical and mental well-being.” 8 U.S.C. § 1232(c)(3)(A). This safety and suitability determination must “at a minimum, include verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.” *Id.* Rushing or skipping those determinations could harm the public’s interest in protecting children and preventing crime.

As the district court observed here, “[r]equiring updated application materials is consistent both with [ORR’s] statutory and regulatory obligations and with the Government’s interest in protecting the safety of these children, especially where a significant amount of time has elapsed between a sponsor’s initial approval and an unaccompanied child’s re-arrest.” JA 21. A significant amount of time did elapse between when Plaintiffs were first released to sponsors and when they re-entered ORR custody. JA21. As a result, ORR has a strong interest in thoroughly

reviewing the current circumstances. Moreover, when, as here, some prior sponsors do not even apply to sponsor again, that “refusal to provide updated information obviously frustrates ORR’s ability to ‘assess the nature and extent of the potential sponsor’s . . . current relationship with the unaccompanied child.’” JA21 n.5 (alteration in original) (quoting 45 C.F.R. § 410.1202(d)).

Second, Plaintiffs’ proposed procedures would require ORR to violate the statutory scheme that Congress created in its plenary power. The government “suffers a form of irreparable injury” “[a]ny time [it] is enjoined by a court from effectuating statutes enacted by representatives of its people.” *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (citation omitted). That is especially true in the context of immigration matters that are “committed to the political branches of the Federal Government,” not the Judiciary. *Flores*, 507 U.S. at 305. In the TVPRA, Congress mandated that UAC “may not be placed with a person or entity unless” ORR determines “that the proposed custodian *is capable* of providing for the child’s physical and mental well-being.” 8 U.S.C. § 1232(c)(3)(A) (emphasis added). This safety and suitability determination must “at a minimum, include verification of the

custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child." *Id.* Thus, by law, ORR must maintain custody of UAC until it determines that the sponsor is currently capable of caring for the child and, as of the time of release, "has not engaged" in activity that would indicate a risk to the child.

Plaintiffs, however, would flip the analysis. Instead of requiring ORR to maintain custody until it can determine that the sponsor "is capable" to care for the child, Plaintiffs would require ORR to release the child almost immediately, unless ORR can prove by clear and convincing evidence that the prior sponsor "is not capable" of providing for the child. Op. Br. 39; Proposed Order 3, ECF No. 10-2. Likewise, Plaintiffs would ignore the statute's command that ORR must make an "independent finding that the individual *has* not engaged in any activity that would indicate a potential risk to the child." 8 U.S.C. § 1232(c)(3)(A) (emphasis added). Plaintiffs would have ORR release a child based on its determination that the sponsor *had* not engaged in such activity as of the time ORR previously vetted the sponsor (years ago, in Plaintiffs' cases).

This Court should not follow the Ninth Circuit’s holding that “[n]othing in the TVPRA requires the government to conduct this [sponsorship] review a second time.” *Saravia for A.H. v. Sessions*, 905 F.3d 1137, 1143 (9th Cir. 2018). The Ninth Circuit’s conclusion is inconsistent with the TVPRA’s use of present-tense verbs and with the common-sense notion that the passage of time may require reassessment of a sponsor relationship. For that reason, among others, this Court should not follow the Ninth Circuit’s holding.³

Third, Plaintiffs’ proposal would introduce unjustified administrative burdens on ORR. Plaintiffs’ proposed timelines would impose an unnecessary administrative burden on ORR, requiring the agency to divert resources away from vetting sponsors and potentially compromising vetting quality. Further, ORR must conduct a dangerousness assessment at the initial intake stage and prior to placement, based on the circumstances of the child’s apprehension and

³ In addition, *Saravia* is distinguishable because the plaintiffs there sued DHS as well as HHS and challenged the lawfulness of their initial arrests, unlike Plaintiffs here. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1181, 1196 (N.D. Cal. 2017), *aff’d*, 905 F.3d 1137. Moreover, unlike Plaintiffs here, the *Saravia* plaintiffs were initially held in a “secure detention facility,” not a shelter or long-term foster care. *Id.* at 1194.

re-referral. JA113 (¶ 39). Additionally, the hearing mechanism proposed by Plaintiffs would create burdens on ORR to obtain the services of a neutral and detached decision maker. JA113 (¶ 40). Plaintiffs' request for "highly specific mandatory relief" would "surely impose some burden on the Government" and thwart ORR's "interest in deciding how best to discharge its statutory obligations." JA 22.

In sum, the district court correctly held that Plaintiffs are not likely to succeed on their due process claim. Plaintiffs have limited liberty interests in this context, and the current regulatory framework—as mandated by the TVPRA, Homeland Security Act, Foundational Rule, and UAC Bureau Policy Guide—provides an appropriate balance without compromising UAC safety. ORR's policies are plainly within constitutional limits.

II. Plaintiffs are not likely to succeed on their APA claims.

Under the APA, "[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review." 5 U.S.C. § 704. As the district court held, APA review is likely unavailable here because Plaintiffs have another adequate remedy in a court through a writ of habeas corpus. In addition,

Plaintiffs are unlikely to succeed because they do not challenge final agency action. Finally, Plaintiffs are unlikely to be able to show that ORR's actions are contrary to law or arbitrary and capricious.

A. Plaintiffs have another adequate remedy in court through habeas.

As the district court held, Plaintiffs' APA claims are likely to fail because Plaintiffs have another "adequate remedy in a court" through a writ of habeas corpus. JA27; 5 U.S.C. § 704.

A court "must give the APA a hospitable interpretation such that only upon a showing of clear and convincing evidence of a contrary legislative intent should the courts restrict access to judicial review." *Garcia v. Vilsack*, 563 F.3d 519, 523 (D.C. Cir. 2009) (citation modified). But APA review is precluded "where Congress has otherwise provided a special and adequate review procedure." *Id.* at 522 (citation modified). The alternative remedy must offer more than "doubtful and limited relief." *Id.* (citation modified). The alternative remedy, however, "need not provide relief identical to relief under the APA, so long as it offers relief of the same genre." *Id.* (citation modified). "Thus, for example, relief will be deemed adequate where a statute affords an opportunity for *de*

novo district-court review of the agency action.” *Id.* at 522-23 (citation modified).

Here, Congress has provided an adequate opportunity for alternative district-court review of the challenged agency action in the general habeas statute, 28 U.S.C. § 2241. Although Plaintiffs do not directly ask for release, they allege that their being in government custody is unlawful without additional procedural protections. And Plaintiffs’ goal is to be more quickly released from ORR custody and placed in the custody of their previous sponsors. Thus, Plaintiffs challenge the fact or duration of ORR’s custody, and those claims could be heard through a petition for a writ of habeas corpus. *Trump v. J.G.G.*, 604 U.S. 670, 674 (2025) (Kavanaugh, J., concurring) (“[G]iven 5 U.S.C. § 704, which states that claims under the APA are not available when there is another ‘adequate remedy in a court,’ . . . habeas corpus, not the APA, is the proper vehicle here.”); *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (per curiam) (“Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus[.]”). Courts routinely address habeas claims from detained aliens alleging that the government must release them or afford them greater

procedural protections. *See, e.g., J.G.G.*, 604 U.S. at 672-73 (per curiam); *Demore v. Kim*, 538 U.S. 510, 513-14 (2003); *D.B. v. Cardall*, 826 F.3d 721, 725 (4th Cir. 2016).

Plaintiffs' claims are core habeas claims: They challenge the fact and length of ORR's custody when a prior sponsor is available to take custody, and the claims are more appropriately heard on a case-by-case basis. *See Al-Hela*, 66 F.4th at 224; *I.M. v. U.S. Customs & Border Prot.*, 67 F.4th 436, 442 (D.C. Cir. 2023). "Regardless of whether [Plaintiffs] formally request release," their claims, if true, would invalidate ORR's custody. *J.G.G.*, 604 U.S. at 672. Indeed, Plaintiffs regularly cite habeas cases. *See* Op. Br. 35 (citing *E.F.E.L. v. Noem*, No. 26-cv-02507, 2026 WL 1045550 (N.D. Ill. Apr. 17, 2026); *A.N.P.S. v. Salazar*, No. 25-CV-14778, 2025 WL 3707333, at *1 (N.D. Ill. Dec. 22, 2025)).

Notably, "situation-specific litigation affords an adequate, even if imperfect, remedy." *Garcia*, 563 F.3d at 525. Thus, contrary to Plaintiffs' argument, the issue does not turn on the availability of vacatur or on being able to proceed as a class. *See* Op. Br. 57-59. The question also does not turn on whether habeas review is as convenient for Plaintiffs or whether Plaintiffs would ultimately succeed in habeas. *See id.* at 59-60.

In any event, situation-specific litigation through habeas likely provides a better vehicle for reviewing Plaintiffs' challenges. Habeas review can provide prompt, relatively inexpensive review of executive detention compared to a class-action lawsuit. 28 U.S.C. § 2243 (setting timing requirements for courts when a habeas petition is filed); 28 U.S.C. § 1914(a) (\$5.00 filing fee). In addition, resolving due process claims through a class action can be difficult because "due process is flexible" and "calls for such procedural protections as the particular situation demands." *Jennings v. Rodriguez*, 583 U.S. 281, 314 (2018) (citation modified) (instructing the court of appeals, in light of that concern, to "consider on remand whether a Rule 23(b)(2) class action litigated on common facts is an appropriate way to resolve respondents' Due Process Clause claims"). Finally, an individual habeas action allows a court to order release, if warranted. Release immediately ends the allegedly unlawful executive detention and does not require the court "to design additional procedures for ORR," a task that is outside a district court's "competen[ce]." *Beltran v. Cardall*, 222 F. Supp. 3d 476, 489 (E.D. Va. 2016). "Habeas is thus not merely 'adequate' relief but is likely the most appropriate relief for Plaintiffs." JA27.

Consequently, the district court correctly held that a proceeding for a writ of habeas corpus is likely an adequate remedy that forecloses APA review. *See Vetcher v. Sessions*, 316 F. Supp. 3d 70, 77-78 (D.D.C. 2018); *Stern v. Fed. Bureau of Prisons*, 601 F. Supp. 2d 303, 305 (D.D.C. 2009); *see also Yi v. Maugans*, 24 F.3d 500, 507 (3d Cir. 1994).

B. Although the district court held that Plaintiffs likely challenge final agency action, this Court should hold that Plaintiffs do not.

As relevant here, the APA strictly limits judicial review to “final agency action.” 5 U.S.C. § 704. This finality requirement is a critical prerequisite, preventing premature judicial intervention in administrative processes that are not yet conclusive. Although the district court held that Plaintiffs likely do challenge final agency action, JA26, that conclusion is incorrect. A two-prong test governs whether an agency action is “final.” *See Bennett v. Spear*, 520 U.S. 154, 177-78 (1997). “First, the action must mark the consummation of the agency’s decision-making process—it must not be of a merely tentative or interlocutory nature.” *Id.* (citation modified). Second, “the action must be one by which rights or obligations have been determined, or from which legal consequences will flow.” *Id.* at 178 (citation modified). Without final

agency action, Plaintiffs “lack a cause of action under the APA.” *Soundboard Ass’n v. Fed. Trade Comm’n*, 888 F.3d 1261, 1267 (D.C. Cir. 2018) (citation modified). The alleged agency actions that Plaintiffs challenge do not meet either prong of the *Bennett v. Spear* test.

As to the alleged “reapplication policy,” Plaintiffs point to nothing establishing that such a policy exists in its own right. Plaintiffs do not allege when ORR supposedly adopted this policy. Plaintiffs also do not identify any document or regulatory action taken to adopt the alleged policy. Thus, the supposed policy that Plaintiffs challenge is not the consummation of the agency’s decision-making, as required under the first prong.

Moreover, legal consequences to Plaintiffs do not flow from the supposed policy (that does not exist). Rather, legal consequences flow to Plaintiffs from the TVPRA and the Foundational Rule that require ORR to conduct certain steps and to consider the potential sponsor’s current fitness and the UAC’s present circumstances prior to release in all cases. 8 U.S.C. § 1232(c)(3)(A); 45 C.F.R. § 410.1202(b)-(c), (f). The only administrative records available for APA review would be of the TVPRA and Foundational Rule (which Plaintiffs do not challenge) and of the

adjudication in each individual case. Similarly, there is nothing for this Court to hold unlawful and set aside other than the decisions in Plaintiffs' particular cases. Therefore, as to the alleged reapplication policy, Plaintiffs also do not meet the second prong of the *Bennett v. Spear* test.

As to each Plaintiffs' particular case, requiring the potential sponsor to reapply is not final agency action either. The sponsorship application is not the consummation of the agency's decision-making; it is a procedural step before the ultimate decision of whether to release the child to the sponsor. And if ORR does ultimately deny release to a parent, legal guardian, or close relative, the denial may be appealed. 45 C.F.R. § 410.1206.

Thus, as an alternative basis, this Court could hold that Plaintiffs are not likely to succeed on their APA claims because they do not challenge final agency action. *See Jones v. Bernanke*, 557 F.3d 670, 676 (D.C. Cir. 2009) ("We may affirm a judgment on any ground the record supports and that the opposing party had a fair opportunity to address." (citation modified)).

C. ORR's alleged actions are not contrary to law or beyond statutory authority.

Even if reviewable, Plaintiffs' APA claims are not likely to succeed. The district court correctly held that Plaintiffs are not likely to succeed on their claim that ORR's reapplication policy is contrary to law. JA30-32. The TVPRA and Foundational Rule do not contain special rules to govern the specific situation of when UAC are re-referred to ORR custody. Therefore, Plaintiffs base their claim on general statements in the statute and regulations. Specifically, Plaintiffs contend that ORR's reapplication policy violates the TVPRA's command to promptly place children "in the least restrictive setting that is in the best interest of the child." Op. Br. 45 (quoting 8 U.S.C. § 1232(c)(2)). Plaintiffs also argue that the reapplication policy improperly disregards ORR's "regulatory mandate to 'release a child from its custody without unnecessary delay.'" *Id.* (quoting 45 C.F.R. § 410.1201(a)).

However, determining that a potential sponsor is currently suitable is a prerequisite to a finding that placement with the sponsor is "the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A). And determining that a potential sponsor is currently suitable is necessary to the child's safety; sponsor vetting is not

“unnecessary delay” under the Foundational Rule. 45 C.F.R. § 410.1201(a). Both the TVPRA and the Foundational Rule require ORR to take specific vetting steps before release in every case. ORR must verify that a sponsor, whether previously approved or a first-time applicant, remains “capable of providing for the child’s physical and mental well-being.” 8 U.S.C. § 1232(c)(3)(A). ORR must make an “independent finding that the individual *has not* engaged in any activity that would indicate a potential risk to the child.” *Id.* (emphasis added). As such, past approvals are not, and should not be, a guarantee for re-approval.

And the regulations support ORR’s vetting of sponsors for all UAC. “Prior to releasing an unaccompanied child, ORR *shall* conduct a suitability assessment to determine whether the potential sponsor *is capable* of providing for the unaccompanied child’s physical and mental well-being.” 45 C.F.R. § 410.1202(b) (emphasis added). This language has no exceptions. And ORR “shall conduct a suitability assessment.” “Shall” is mandatory. The regulations further reinforce ORR’s duty to conduct sponsor suitability assessments: “Subject to an assessment of sponsor suitability, . . . ORR shall release a child from its custody” *Id.*

§ 410.1201(a). This section requires an assessment of sponsor suitability before ORR releases the child. Thus, ORR has a duty to conduct suitability assessment of a sponsor each time it releases a child.

Other provisions reinforce that ORR needs to evaluate even previously approved sponsors. “ORR *shall* assess the nature and extent of the potential sponsor’s previous and *current* relationship with the unaccompanied child, and the unaccompanied child’s family, if applicable.” *Id.* § 410.1202(d) (emphasis added). If ORR excepted previously approved sponsors from suitability assessments, ORR would be ignoring this regulatory command that it “shall assess” the “current relationship” between sponsor, child, and family. *Id.* Regulations must be read so that each provision is given effect. Ignoring this requirement to assess the sponsor and child’s current relationship could have consequences too—potentially missing child abuse during the previously approved sponsorship period.

Indeed, “ORR shall not be required to release an unaccompanied child to any person or agency it has reason to believe may harm or neglect the unaccompanied child or fail to present the unaccompanied child before DHS or the immigration courts when requested to do so.” *Id.*

§ 410.1203(e) (emphasis added). This regulation imposes an ongoing, continuous obligation on ORR. To meet this ongoing, continuous obligation, ORR must evaluate all potential sponsors; excepting previously approved sponsors would ignore this regulatory obligation on ORR to ensure the child's safety and the child's obligation to attend future immigration proceedings.

Therefore, ORR's actions are not contrary to law.

D. ORR's alleged actions are not arbitrary and capricious.

The district court also correctly held that Plaintiffs are not likely to succeed on their claim that ORR's policy is arbitrary and capricious. JA32-34. Plaintiffs' argument ignores ORR's obligation to follow the requirements of the TVPRA, the Homeland Security Act, the Foundational Rule, and its own UAC Bureau Policy Guide to ensure that UAC are safe upon their release.

"The scope of review under the 'arbitrary and capricious' standard is narrow and a court is not to substitute its judgment for that of the agency." *See Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *see FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 513-14 (2009). "The question is not what [the

reviewing court] would have done, nor whether [the court] agree[s] with the agency action. Rather, the question is whether the agency action was reasonable and reasonably explained.” *Jackson v. Mabus*, 808 F.3d 933, 936 (D.C. Cir. 2015).

Although Plaintiffs attempt to conduct a traditional arbitrary-and-capricious analysis of the alleged “reapplication policy,” this effort makes little sense because the supposed policy is not a separate final agency action. ORR is simply following ORR’s generally applicable sponsor-vetting policies in response to a relatively new situation. JA32-33. ORR provided reasoned explanations for its sponsor-vetting policies when it promulgated the Foundational Rule and when it has promulgated sections of its UAC Bureau Policy Guide. ORR has not changed course or adopted a new policy.

To the extent this Court engages in an arbitrary-and-capricious analysis, this Court should not require ORR to substitute Plaintiffs’ preferred framework for ORR’s mandated structure, even if this Court were to disagree with that structure. Under the deferential arbitrary-and-capricious standard that this Court applies under the APA, ORR’s choice to abide by the TVPRA, Homeland Security Act, Foundational

Rule, and UAC Bureau Policy Guide as to re-referred UAC is lawful. ORR must follow the statutes, regulations, and policies in existence when it comes to the safety of UAC in its custody, even those that are re-referred. Plaintiffs do not challenge the lawfulness of those policies as a general matter. If Plaintiffs want ORR to adopt a new rule for UAC referred to ORR a second time, the APA provides Plaintiffs a mechanism to petition ORR. *See* 5 U.S.C. § 553(e). This Court, however, should not interfere with ORR's "broad discretion in determining how best to handle related, yet discrete, issues in terms of procedures and priorities." *Mobil Oil Expl. & Producing Se. Inc. v. United Distribution Cos.*, 498 U.S. 211, 230 (1991) (citation omitted).

Plaintiffs contend that ORR has "provided no explanation whatsoever for why the entire sponsor vetting process must be repeated every time a previously released child comes back into ORR custody." Op. Br. 47. But ORR has determined that each step of its sponsor-vetting process serves an important purpose, and ORR will only waive a step if it is confident that the sponsor is currently suitable. Moreover, in this lawsuit, Plaintiffs have not merely alleged that ORR is conducting a few unnecessary steps. Rather, Plaintiffs seek an injunction that would

require ORR to skip entirely an assessment of a sponsor and child's current circumstances, unless ORR is almost immediately aware of a potential problem.

Plaintiffs also argue that ORR failed to acknowledge their “serious reliance interests” in the “initial sponsorship approval decision.” Op. Br. 50. But ORR is not questioning its prior determinations. JA33. Rather, ORR is making new determinations based on current circumstances. JA33. Likewise, Plaintiffs maintain that ORR “failed to consider any reasonable alternatives” and “failed to give any consideration to the harms of prolonged detention.” Op. Br. 51. Similarly, Plaintiffs assert that ORR's justification is “impermissibly inconsistent” with the TVPRA's goal. *Id.* at 52. Again, these arguments are based on the theory that ORR has adopted a new policy. But that is incorrect. Moreover, even if ORR has “err[ed] on the side of ‘providing safe and secure placements’ at the expense of ‘prompt[ness],” it is not this Court's job to overrule the agency's weighing of the competing statutory goals. JA34 (second alteration in original).

Finally, ORR's sponsor vetting does not lead to absurd results, certainly not for these Plaintiffs. *See* Op. Br. 53. After the passage of time,

ORR had to assess whether the past sponsors were currently safe and suitable placements for Plaintiffs. Some duplication of prior steps is hardly absurd, especially when ORR knows that its previous sponsor-vetting policies were susceptible to fraud. *See* JA103-05 (¶¶ 18-21).

Therefore, Plaintiffs APA claims are not likely to succeed.

III. The District Court correctly held that the other factors did not favor issuing a preliminary injunction.

The district court did not abuse its discretion in weighing the remaining preliminary-injunction factors. JA34. In weighing Plaintiffs' showing of irreparable harm, the district court noted that "irreparable harm, even when demonstrated, may be insufficient on its own to warrant a preliminary injunction." JA35 (quoting *Hanson v. District of Columbia*, 120 F.4th 223, 243 (D.C. Cir. 2024), *cert. denied*, 145 S. Ct. 2778 (2025)). The district court also observed that Plaintiffs' harms "are not 'beyond remediation' absent a preliminary injunction" because Plaintiffs could seek individual habeas relief. JA35. Plaintiffs do not respond to those two specific points in the Opening Brief. *See generally* Op. Br. Plaintiffs' strategic decision to bring a class action instead of individual habeas petitions weighs against granting the extraordinary remedy of a preliminary injunction.

The district court held that the balance of equities and the public interest do not favor issuing a preliminary injunction because Plaintiffs were not likely to succeed on the merits and because the scope of Plaintiffs' requested relief would be in tension with the ordinary judicial deference to Executive Branch decisions in the immigration context.⁴ JA35-36. Plaintiffs suggest that ORR is not entitled to judicial deference because the care and custody of UAC is a "child welfare issue," not a matter that implicates "sensitive political functions" and "questions of foreign relations." Op. Br. 64-65. But judicial deference to the political branches applies even in "welfare" cases where aliens are concerned. *See Mathews v. Diaz*, 426 U.S. at 80-82.

Moreover, the public interest strongly supports allowing ORR to use the congressionally mandated vetting procedures that it has determined are necessary to ensure UAC safety and prevent crime. Plaintiffs assume that all former sponsors of re-referred UAC are in fact still suitable unless there is immediate information showing otherwise. But ORR cannot make this assumption. The risks are too grave. Indeed,

⁴ Contrary to Plaintiffs' assertion, Op. Br. 62-64, the district court had evidentiary support for its conclusion that ORR "does not have access to' detached decisionmakers." JA36; *see* JA113 (¶ 40).

this Court must give deference to ORR’s experience and predictive judgments about fraud and human trafficking in the absence of current vetting requirements. *See Winter*, 555 U.S. at 27; *see also Schall v. Martin*, 467 U.S. 253, 264 (1984) (holding that the government has a significant interest in “protecting the community from crime”).

CONCLUSION

For the foregoing reasons, this Court should affirm the district court’s denial of Plaintiffs’ motion for a preliminary injunction.

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limit of Federal Rule of Appellate Procedure 32(a)(7) because it contains 12,877 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and D.C. Cir. Rule 32(e)(1). This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Century Schoolbook 14-point font, a proportionally spaced typeface.

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