



**FIRST FOCUS CAMPAIGN FOR CHILDREN
STATEMENT FOR THE RECORD**

**HOUSE COMMITTEE ON HOMELAND SECURITY:
“DANGEROUS PASSAGE: THE GROWING PROBLEM OF
UNACCOMPANIED CHILDREN CROSSING THE BORDER.”**

JUNE 24, 2014

Chairman McCaul, Ranking Member Thompson, and Members of the Committee on Homeland Security, we thank you for the opportunity to submit this statement for the record for this hearing entitled “Dangerous Passage: The Growing Problem of Unaccompanied Children Crossing the Border.”

The First Focus Campaign for Children is a bipartisan advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. As an organization dedicated to promoting the safety and well-being of all children in the United States, we urge Congress to work towards finding comprehensive solutions to the Central American child migration crisis that prioritize the best interest of the child and address both the immediate needs of the children who have recently entered the U.S. as well as the root causes of their forced migration.

There is no doubt that the recent influx of unaccompanied children across the Southern border represents a humanitarian crisis. Recent data from the Department of Homeland Security (DHS) reveals that since October 1, 2013, 47,017 children have entered the United States, with the majority coming from Mexico, Honduras, El Salvador, and Guatemala and a significant increase in the number of girls and young children.ⁱ According to a recent report by the UN High Commissioner for Refugees (UNHCR), the majority of the children are escaping extreme violence and instability in their home countries, spurred by drug traffickers and increased gang activity.ⁱⁱ While some children are also motivated by domestic abuse, extreme poverty, high unemployment rates and hopes of reunifying with family members in the U.S., the vast majority are fleeing desperate situations which force both youth and their families to make the very difficult decision to stay and accept near certain death or risk “probable death” by migrating to surrounding countries. On their arduous and dangerous journey, many children fall victim to trafficking, sexual abuse, and violence. In fact, UNHCR estimates that nearly two-thirds of the unaccompanied minors they interviewed qualify for international protection due to violence and abuse in their home countries.^{iv}

These children are some of the most vulnerable, and yet despite their hope of finding protection and safety in the United States, they are faced instead with a complicated immigration system that does not reflect their specific needs. After apprehension and screening by Customs and Border Patrol (CBP), children are held for up to 72 hours in detention centers that are frequently not equipped to meet children’s needs and lack personnel who are trained in working with traumatized children. A recent lawsuit by the ACLU and other civil rights groups against CBP cited over 100 instances of abuse and maltreatment of unaccompanied children in CBP custody, including freezing cold cells, inadequate access to food or medical care, and incidents of physical and sexual abuse.^v Upon release from CBP, children are either immediately repatriated to their home country or referred to the Office of Refugee

Resettlement (ORR) within the Department of Health and Human Services (HHS) to be placed in shelter care or released to a parent, relative or other sponsor pending the outcome of their immigration hearing. All unaccompanied children are placed into removal proceedings, and must undergo the same immigration process as adults. Despite their age, even children as young as two-years-old are not appointed legal counsel, forcing them to undergo proceedings alone or rely on the limited pro bono representation provided by non-profit organizations.

Concerns with the Current Federal Response

We recognize that the Administration has taken several steps to address the unprecedented surge in child migrants, including creating an interagency Unified Coordination Group led by the Federal Emergency Management Agency (FEMA) to deal with the emergency situation and announcing a new “justice AmeriCorps” program, launched in partnership by the Department of Justice (DOJ) and the Corporation for National and Community Service.^{vi vii} Last week, the Administration also released a plan to increase foreign aid to the Mexico, Guatemala, El Salvador, and Honduras, with a focus strengthening citizen security, gang prevention, youth development, public policy campaigns, and reintegration and repatriation program.^{viii} The plan also includes increased enforcement measures, including increased resources for expediting the removal proceedings of families and placing families and children in family detention centers. We believe that the Administration’s belated response continues to fall short of meeting the needs of these extremely vulnerable children, especially given that the projections for the current influx have been available since early this year. Thus, we urge the Administration to devote more resources and engage more stakeholders with expertise in child welfare in both the short and long-term response to this crisis. The following are some specific concerns we have with the Administration’s response to date:

- Appointing FEMA to be the lead the emergency response and utilizing large institutional shelters may be a short-term necessity, but FEMA lacks the expertise in dealing with the long-term, unique needs of these child refugees. We are also gravely concerned regarding the conditions in the border detention centers as well as the large emergency-style shelters in which thousands of children are currently being housed. HHS announced that \$350 million would be awarded in grants for shelters to house and provide services for unaccompanied children, and currently three military bases are being used for this purpose, including Lackland Air Force Base (San Antonio, Texas), Naval Base Ventura (Oxnard, CA), and Fort Sill (Oklahoma).^{ix} Research has consistently shown that large institutional settings are not appropriate for children, particularly for those who have experienced trauma and have special needs.^x
- We are concerned with recent changes by the ORR to expedite the release process of unaccompanied children to potential sponsors by waiving the fingerprint checks for sponsors claiming children over the age of 12 and for sponsors who are parents or legal guardians. While we support placement in community-based settings over shelter care, we are concerned that policy changes that weaken the screening process for potential sponsors may put children at risk, particularly given the extremely limited follow-up services.
- Recent data released by the DHS on the number of unaccompanied children who have been apprehended include a significant number of Mexican children, the majority of whom are being returned rather than referred to ORR. Prior to passage of the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Mexican children apprehended at the border were often immediately returned to Mexico while Central American children and those from other non-contiguous countries were automatically referred to ORR. While the TVPRA of 2008 required CBP to follow a new process to screen for certain vulnerabilities before repatriating Mexican children, the number of Mexican children referred to ORR remains relatively low given the high number of children apprehended. Given that CBP lacks sufficient training to appropriately screen

children, significant concerns remain that many Mexican children who may be victims of trafficking or have other humanitarian concerns continue to fall through the cracks.

- While the new legal aid program “justiceAmericorps” is step in the right direction to address the critical need to provide legal representation to unaccompanied children, we have concerns with the limited experience of the lawyers, the one-year service period, and the restrictions to providing counsel to youth 16 and older, who are at the greatest risk losing their right to humanitarian relief upon reaching the age of 18.
- The Administration’s recent decision to dedicate resources to expedite removal proceedings for children families as well as open family detention centers place is a misguided plan with grave consequences. The Administration ended the policy of family detention in 2009 with the closing of the T. Don Hutto detention facility in Texas due to the public outcry concerning the conditions families and children were subjected to in such settings.
- The increase in U.S. foreign aid that was recently announced for Mexico, Honduras, El Salvador, and Guatemala is insufficient to fully address the violence and instability in the region that are causing children to flee. While the Administration noted that aid is intended to address the increased violence in the region, there was insufficient mention of the need to fund efforts to mitigate the dangers posed by drug traffickers and smugglers in the region. Rather than use resources on public awareness campaigns to clarify current U.S. immigration policies, more funding should be targeted to addressing the extreme violence and desperate situations that are driving children and families to flee.

Recommendations

We urge both Congress and the Administration to hold the best interest of the child paramount in all solutions that are being developed to address this crisis. The following are specific recommendations from the First Focus Campaign for Children, many of which were included in the plan presented last week by Senators Robert Menendez (D-NJ), Dick Durbin (D-IL), Mazie Hirono (D-HI), and Representatives Luis Gutierrez (D-IL) and Lucille Roybal-Allard (D-CA).

- All the federal agencies that deal with unaccompanied children, including DHS, DOJ, and HHS should adopt a best interest of the child standard to guide all decisions made regarding the care of unaccompanied children as well as their eligibility for humanitarian relief.
- Congress should increase funding levels to HHS, DHS, DOJ and other relevant agencies so that adequate resources are available to ensure that children are receiving proper treatment and services that reflect their unique needs and vulnerabilities. On June 10, 2014, Senator Harkin introduced a bill that provides \$1.94 billion to HHS to address the surge of unaccompanied children. The Labor-HHS bill with this provision has been approved by the sub-committee but is pending passage by the full Senate Appropriations Committee.^{xi} Congress should move quickly to approve this bill.
- CBP should contract with child welfare experts to screen children along the border so that children are properly evaluated for trafficking and other humanitarian concerns and connected to services.

- DHS and HHS/ORR should ensure that temporary CBP holding facilities and emergency shelters meet the required humanitarian standards for children set forth in the *Flores. v. Reno* settlement and the TVPRA and codify these standards in DHS regulations.^{xiii} The Flores Settlement, born out of a class action brought by the ACLU against the INS sets standards of how a minor in the custody of the INS should be treated. It stipulates that facilities will provide access to toilets and sinks, drinking water and food, medical assistance, adequate temperature control and ventilation, adequate supervision of minors, and contact with family members. Likewise, family detention centers should not be reopened; rather, effective alternatives to detention should be used whenever possible for families.
- ORR should ensure that children are placed into community-based care whenever possible, including placement with parent or relative sponsors, and strengthen screening mechanisms for sponsors to ensure children are being placed in safe and appropriate settings. When community-based care is not an option, children should be placed in proper facilities and other settings that are adequately equipped to meet the medical, mental health and other special needs of children, as well as pregnant and parenting teens, rather than placing children in large institutional settings.
- ORR should strengthen and significantly expand the follow-up services provided to children and their sponsors once they are released from federal custody to ensure their safety and well-being.
- All unaccompanied children placed into removal proceedings should be provided legal representation and child advocates to increase their chances for obtaining immigration relief and to ensure consideration of their best interests. Congress should pass The Vulnerable Immigrant Voice Act of 2014 by Congressman Jeffries, which would address the dire need for unaccompanied children to have access to legal counsel. The new federal “justice Americorps” legal services grant should also be modified so that it includes 16- and 17-year-old youth who risk losing their eligibility for immigration upon reaching the age of 18.
- The Department of State, in partnership with over relevant governmental and nongovernmental agencies in the U.S. and in the sending countries, should develop a program focused on the safe and successful repatriation and reintegration of children that are returned to their home countries.
- Foreign aid should be targeted to address the instability and violence being caused by drug traffickers and smugglers in Honduras, Guatemala, El Salvador, and Mexico and a comprehensive strategy in partnership with governments in the region should be developed that is focused on restoring children’s safety, rights, and opportunity in their home countries.
- Congress should establish a bicameral and bipartisan committee focused on developing strategies to meet the needs of child refugees and address the root causes of the child migration crisis.

We thank you again for the opportunity to submit this statement for the record. We look forward to working with Congress in the weeks ahead to find solutions to address the short and long-term needs of these vulnerable children

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who are in dire need of protection and assistance. Should there be any questions regarding this statement, please contact Wendy Cervantes, Vice President of Immigration and Child Rights, at wendyc@firstfocus.net.

ⁱ Southwest Border Unaccompanied Children, U.S. Customs and Border Protection (April, 2014) <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>

ⁱⁱ Children on the Run: Unaccompanied Children Leaving Central American and Mexico and the Need for International Protection, UNHCR (2014).

ⁱⁱⁱ Julia Preston, *New U.S. Effort to Aid Unaccompanied Child Migrants*, New York Times, June 2, 2014 Available at: http://www.nytimes.com/2014/06/03/us/politics/new-us-effort-to-aid-unaccompanied-child-migrants.html?_r=1

^{iv} Children on the Run: Unaccompanied Children Leaving Central American and Mexico and the Need for International Protection, UNHCR (2014).

^v Unaccompanied Alien Children Report Serious Abuses by U.S. Officials During Detention. American Civil Liberties Union, June 11, 2014. Available at: <https://www.aclu.org/immigrants-rights/unaccompanied-immigrant-children-report-serious-abuse-us-officials-during>

^{vi} The Department of Justice (June, 6, 2014) Justice Department and CNCS Announce New Partnership to Enhance Immigration Courts and Provide Critical Legal Assistance to Unaccompanied Minors [press release]. Retrieved from <http://www.justice.gov/opa/pr/2014/June/14-ag-609.html>

^{vii} The White House, Presidential Memorandum- Response to the Influx of Unaccompanied Alien Children Across the Southwest Border, June 2, 2014.

Available at: <http://www.whitehouse.gov/the-press-office/2014/06/02/presidential-memorandum-response-influx-unaccompanied-alien-children-acr>

^{viii} White House Fact Sheet. Unaccompanied Children from Central America. June 20, 2014. Available at: <http://www.whitehouse.gov/the-press-office/2014/06/20/fact-sheet-unaccompanied-children-central-america>

^{ix} U.S. Department of Health and Human Services. Administration for Children and Families. *Residential Services for Unaccompanied Alien Children, Office of Refugee Resettlement*, HHS-2015-ACF-ORR-ZU-0833, June 6, 2014. Available at:

<http://www.cnsnews.com/sites/default/files/documents/HHS%20Grant%20Illegal%20minors.pdf>

^x Dozier, M., Kaufman, J., Kobak, R., O'Connor, T.G, Sagi-Schwartz, A., Scott, S., Shauffer, C., Smetana, J., van Ijzendoorn, M. H., Zeanah, C.H.

"Consensus Statement on Group Care for Children and Adolescents: A Statement of Policy of the American Orthopsychiatric Association." *American Journal of Orthopsychiatry*, 84.3 (2014): 219-225.

^{xi} Erik Wasson, *Senate to provide 1.9 billion for rise in child migrants*, The Hill, June 10, 2014. Available at: <http://thehill.com/policy/finance/208840-senate-to-provide-19b-to-handle-spike-in-child-migrants>

^{xii} Stipulated Settlement Agreement at 7, *Flores v. Reno* (1997). Available at:

<http://immigrantchildren.org/cases/FLORES%20CASE/Flores%20Procedural%20Docs/FloresStpultdSetlmt%20AGMT.pdf>