



TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

Unaccompanied Alien Children Crossing the Texas Border

General Background

By law, the United States Department of Health and Human Services (HHS) must provide for the custody and care of unaccompanied alien children. An unaccompanied alien child (UAC) is a child who has no lawful immigration status in the United States; has not attained 18 years of age; and, with respect to whom, there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States available to provide care and physical custody (6 U.S.C. § 279(g)(2)).

On March 1, 2003, the Homeland Security Act of 2002, Section 462, transferred responsibilities for the care and placement of UAC from the Commissioner of the Immigration and Naturalization Service to the Director of HHS's Office of Refugee Resettlement (ORR). UAC apprehended by the Department of Homeland Security's (DHS) Customs and Border Protection (CBP) are transferred to the care and custody of ORR. Once transferred to their custody, ORR is currently utilizing two options to place UAC: 1) a network of state licensed ORR-funded care providers, which are private businesses operating residential care facilities that are contracting with the federal government; or 2) a network of federal facilities, which are facilities on property owned or leased by federal government entities that are staffed by persons employed by the federal government.

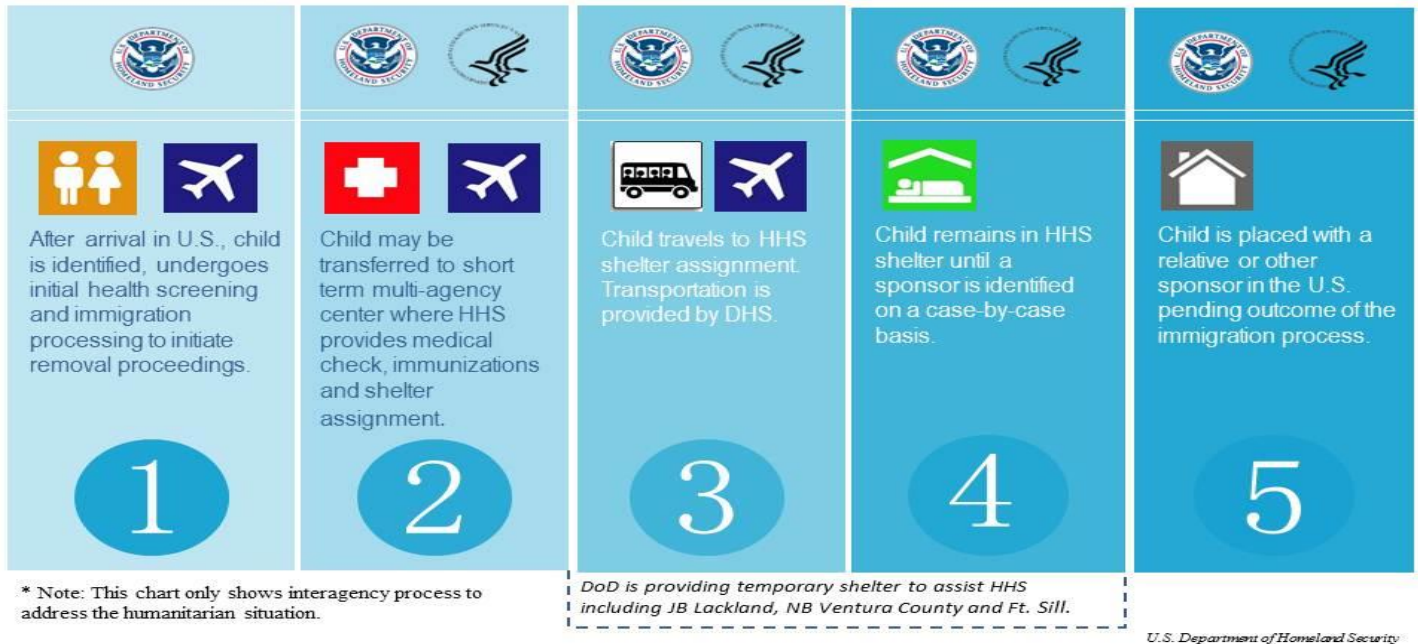
Clarification

- Despite the fact that the UAC crossing the border are heavily referred to as "refugees" in the media, and the fact that they are being handled by the ORR, the UAC crossing the border into the United States (US) are technically detainees of the federal government who are in the deportation process.
- They have not been granted official refugee status by the United States Department of Homeland Security (DHS). "Refugee" is an official, legal immigration status which confers certain rights to a person and none of the UAC crossing the border have been granted this status.
- Also, the UAC crossing the border are not being identified by DHS as "International Victims of Trafficking." An International Victim of Trafficking is someone who has been forced through abduction, the use of threat, deception, fraud, or sale for the purposes of sexual exploitation or forced labor.
- The Trafficking Victims Protection Act (TVPA) of 2000, and its reauthorization acts (the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005 and 2008), directs ORR to identify and assist trafficking victims and to issue "Eligibility Letters" for children that are International Victims of Trafficking.
- International trafficking victims are eligible for refugee assistance programs once they are certified by ORR.

Figure 1. Current Steps in Processing Unaccompanied Children

Unaccompanied Children at the Southwest Border

At the direction of the President, a Unified Coordination Group is leveraging Federal resources to address the humanitarian situation associated with the influx of unaccompanied children entering the U.S. across the southwest border. This chart depicts the general process to enhance capacity resulting from federal coordination.



ORR Facilities in Texas and the Role of the Child Care Licensing Program

- In the TVPRA of 2008, which expanded and redefined HHS’s statutory responsibilities, Congress directed that UAC must “be promptly placed in the least restrictive setting that is in the best interest of the child (8 U.S.C. § 1232(b)(2)).”
- Consistent with federal law, ORR has been placing children through a network of state-licensed ORR-funded care providers as capacity allows, as well as placing UAC in federal facilities (Figure 1, Step 4). ORR is currently working to build additional capacity to help with the unexpected surge.¹
- The ORR-funded providers are private operations working under cooperative agreements and contracts with ORR.
- Since these are private businesses operating residential care facilities that are contracting with the federal government, and they are not federal government operations taking place on federal property, they are subject to state licensing laws and therefore must be licensed by the Child Care Licensing (CCL) program within the Texas Department of Family and Protective Services (DFPS).
- Within CCL, licensing and oversight of these facilities falls on the Residential Child Care Licensing (RCCL) division. As with all licensed residential care facilities in Texas, RCCL is responsible for monitoring, inspecting, and conducting abuse/neglect investigations at the facilities in Texas which contract with the federal government to provide ORR services.

¹ ORR is currently working with the General Services Administration (GSA) to vet an additional 43 sites nationwide with an estimated capacity of 10,000 beds.

- Conversely, federal government operations (facilities on property owned or leased by a federal government entity that are staffed by persons employed by the federal government) are not subject to state licensing requirements and are outside the jurisdiction of RCCL and DFPS. For example, the temporary placement facility for UAC at Lackland Air Force Base in San Antonio is not subject to Texas's licensing laws for residential care facilities.
- This also means that RCCL (or any other part of DFPS) would **not** be responsible for investigating any allegations of abuse and/or neglect that occurs at those types of facilities.
- RCCL staff has been conducting preliminary or 'courtesy' inspections on facilities that providers may be considering for licensing and providing feedback on the inspections. These courtesy inspections increase the workload for RCCL; however, thus far, they have been able to handle within their normal processes.
- When reviewing capacity and variance requests from ORR facilities, RCCL first evaluates the variance requests for compliance with minimum standards, then they evaluate for potential health and safety issues. For example, RCCL will determine if the operation has enough toilets and sinks, then review the center's square footage, keeping in mind hygiene concerns and the potential risk for spread of disease (chicken pox and tuberculosis), as well as maintaining appropriate supervision ratios.

UAC and the Role of Child Protective Services

- Child Protective Services (CPS) is perhaps the most visible and easily recognized program within DFPS. The current influx of UAC and the corresponding media reports about poor conditions experienced by those in custody has several stakeholder groups asking about CPS's role in this situation.
- CPS is not responsible for conducting any abuse/neglect investigations pertaining to any UAC while that UAC is in federal custody. This is true regardless of whether the UAC is in custody at a federal facility or at a privately operated ORR-funded facility.
- If there is an abuse/neglect allegation at a privately owned ORR-funded facility, RCCL will investigate. CPS is also not responsible for investigating allegations of abuse and/or neglect that occurred in the UAC's country of origin, since that would have occurred outside of the United States.
- If a UAC is eventually placed with a relative or a sponsor family here in Texas, then the UAC is no longer in federal custody. At that point, any allegations of abuse and/or neglect would officially be within the jurisdiction of CPS.
- The largest impact to CPS may be a reduction in the availability of space to place foster children. At issue here are those entities licensed in Texas to operate residential care facilities. If more of these operations begin contracting with the federal government to provide services to children placed by ORR, spaces available to place Texas foster children could potentially be reduced.
- DFPS contracts with Catholic Charities to provide foster care services for federal Unaccompanied Refugee Minors (URM). DFPS performs this function pursuant to an interagency contract between DFPS and the Texas Health and Human Services Commission's (HHSC) Office of Immigration and Refugee Affairs (OIRA), which serves as the State Refugee Coordinator for the ORR. CPS is the program area within DFPS that oversees this program. This is a very small program with typically less than 100 children being served through this contract at any one time.
- Please note that none of the UAC currently in federal custody are being classified as URM.

Attachment 1

Definitions of Acronyms and Terms

CBP - United States Customs and Border Protection

CCL - Child Care Licensing, a program area within DFPS

CPS - Child Protective Services, a program area within DFPS

DFPS - Texas Department of Family and Protective Services

DHS - United States Department of Homeland Security

GSA - United States General Services Administration

HHS - United States Department of Health and Human Services

HHSC - Texas Health and Human Services Commission

International Victim of Trafficking - a person who is not a citizen of the United States who has been forced through abduction, the use of threat, deception, fraud, or sale for the purposes of sexual exploitation or forced labor.

OIRA - Office of Immigration and Refugee Affairs, a program area within HHSC

ORR - Office of Refugee Resettlement

RCCL - Residential Child Care Licensing, a division within CCL responsible for the licensing and oversight of residential care facilities.

Refugee - a legal immigration status, defined as any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion (Sec. 101(a)(42) Immigration and Nationality Act).

TVPA - Trafficking Victims Protection Act of 2000

TVPRA - William Wilberforce Trafficking Victims Protection Reauthorization Act of 2005 and 2008

UAC - Unaccompanied Alien Child, defined as a child who has no lawful immigration status in the United States; has not attained 18 years of age; and, with respect to whom, there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States available to provide care and physical custody (6 U.S.C. § 279(g)(2)).

URM - Unaccompanied Refugee Minor, typically an unaccompanied minor who is also a refugee (see definition of "refugee" above). In the United States, unaccompanied minors who are refugees, victims of trafficking, entrants, asylees, as well as certain minors with Special Immigrant Juvenile status can be considered unaccompanied refugee minors for the purpose of URM program eligibility.

Attachment 2

Below is a list of licensed operations which provide services under an ORR, ICE or DUCS contract. While contract agreements are not tracked in CLASS, RCCL does maintain a list of operations that have these contracts as a management tool.

Operation	Capacity	Proposed Capacity Requests	Years Licensed
BCFS International Children's Shelter GRO - Harlingen #878119	290	Operation added 100 additional placement capacity beds on 5/25/12 Operation dropped 5 beds 4/5/2013	6
Baptist Child and Home Ministries GRO- San Antonio Campus #2229	24	Decreased capacity from 47 to 28 at operation's request on 5/14/12 Operation dropped 4 beds 3/29/2013	27
BCHM Region Children's Assessment Center GRO - San Antonio #256141	152	Operation added 37 additional permanent capacity beds on 5/14/12 Operation added 50 beds 3/29/2013	21
BCHM Foster Family Services CPA- San Antonio #68030-220	N/A (CPA)		16
St. Michaels Home for Children II GRO Houston #877195	24		6
Catholic Charities CPA (multiple foster homes in the Houston area) #31-31	N/A (CPA)		29
Galveston Multicultural Institute GRO (Galveston) #956646	32		5
IES – International Education Services CPA (Brownsville and Harlingen) #857739-338	N/A (CPA)		8
IES – International Education Services GRO (Los Fresnos) #239820	240	Operation added an additional 8 permanent capacity beds on 7/20/12	26
A World for Children CPA – McAllen - They contract with IES to place kids that need additional services #526950-428	N/A (CPA)		17
Bokenkamp Corpus Christi Lutheran Social Services) #859541	120	Variance issued to allow 4 kids per bedroom only in cottage A and B and and 6 kids total in the ATU unit. 7/23/13 capacity increased from 105-120	7
Lutheran Social Services CPA Branch 20 – (multiple foster homes in El Paso) Lutheran Social Services CPA Branch 27- Corpus Christi #25-25	N/A CPA		29

International Foster Care CPA Fort Worth #1159846-6911	N/A CPA		3
Southwest Key GRO Harlingen - Combes #880883	87	Increased permanent capacity by 8 beds on 8/30/12 Increased capacity by 24 beds on 3/18/14 Variance Request approved for 30 days, effective 6/4/14 to increase capacity by 18 beds. Variance expires on 7/4/14.	6
Southwest Key GRO Conroe #847171	120	Increased permanent capacity from 64 to 80 on 8/19/12. Increased permanent capacity from 80 to 120 on 10/5/12	8
Southwest Key GRO Brownsville- La Esperanza #255892	82		11
Southwest Key GRO San Antonio - Casa Blanca #1240186	45		2
Southwest Key GRO El Paso - Casa Franklin #1432066	72	Variance Request approved for 30 days, effective 6/5/14 to increase capacity by 31 beds. Variance expires on 7/5/14	2
Southwest Key GRO Clint - Casita Del Valle #1010346	97	Increased permanent capacity beds by 30 on 5/18/12 Variance Request approved for 30 days, effective 6/5/14 to increase capacity by 22 beds. Variance expires on 7/5/14	5
Southwest Key GRO Cantuillo #521962	94		18
Southwest Key – GRO RTC (Houston) #254719	54		23
Shiloh Treatment Center- GRO RTC – Manvel #5176891	43		18
Southwest Key GRO – Houston (Casa Houston) #1460646	75	Full permit issued on 12/4/12	2
BCFS -HHS International Children's Services Emergency Shelter - Baytown GRO #1442846	168	Full permit issued on 11/7/12	2
Seton Home – San Antonio #204485	106	Increased permanent capacity by 26 beds week of 3/25/2013 for ORR placements. Still serving both CPS & ORR children.	25

BCFS HHS International Children's Services Emergency Shelter GRO – Raymondville #1514373	48	Full permit 11/20/2013	1
BCFS HHS International Children's Services Emergency Shelter (on Chavaneaux) GRO – San Antonio #1516462	80	Full permit 11/25/2013	1
IES GRO – Driscoll #1512295	205	Full permit 10/14/2013	1
Southwest Key Casa Rio Grande GRO – San Benito #1514002	214	Full permit 1/3/2014 Variance Request approved for 30 days, effective 6/5/14 to increase capacity by 56 beds. Variance expires on 7/5/14	1
Southwest Key Casa Antigua GRO – San Benito #1514498	260	Full permit 11/8/2013 Capacity increased from 128 - 202 on 3/24/2014 Variance Request approved for 30 days, effective 6/4/14 to increase capacity by 58 beds. Variance expires on 7/4/14.	1
SWK – EL Presidente - Brownsville #1517766	99	Full permit 11/21/2013 Variance Request approved for 30 days, effective 6/4/14 to increase capacity by 25 beds. Variance expires on 7/4/14.	1
SWK - Nueva Esperanza - Brownsville #1531881	112	Initial permit issued- 1/23/2014 Variance Request approved for 30 days, effective 6/4/14 to increase capacity by 32 beds. Variance expires on 7/4/14.	Does not have a non- expiring license yet
St Peter - St Joseph Children's Home Emergency Shelter GRO ES #817874	106	using 82 beds for ORR	11
Brazoria County Youth Homes GRO #841879	40	Began operating again on 5/30/2014	10
Assessment Center of Tarrant County #1101906	40	Variance Request approved until 9/30/14 to use different parts of the building for ORR children. This did not increase capacity.	3

CPA - Child Placing Agency
GRO - General Residential Operation