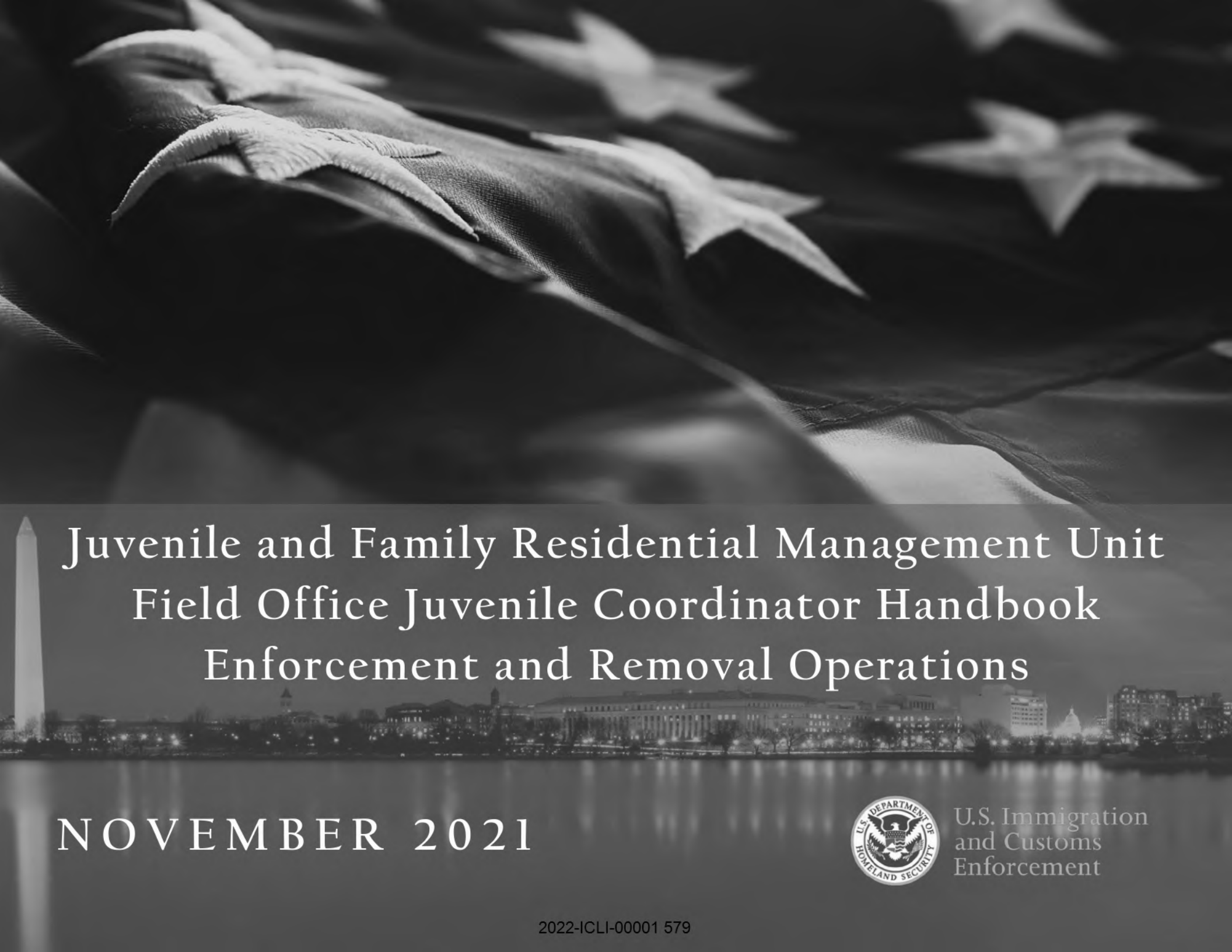


The background of the cover features a close-up, high-contrast black and white image of the American flag's stars and stripes, draped and folded. Below this, a dark silhouette of the Washington D.C. skyline is visible, including the Washington Monument on the left and the U.S. Capitol building in the center, with their lights reflecting on the water in the foreground.

Juvenile and Family Residential Management Unit Field Office Juvenile Coordinator Handbook Enforcement and Removal Operations

NOVEMBER 2021



U.S. Immigration
and Customs
Enforcement

How to Use This Handbook

This handbook is designed to help you quickly locate information you need to perform your FOJC duties. Please take a few moments to review the following guidance on how to navigate this interactive Field Office Juvenile Coordinator Handbook.

- Words that are blue and underlined link to an external website, or e-mail within this handbook. So, you must have an Internet connection to access these links.
- **Bold underlined black** words within the text link within the document.
- Scroll or hover over words that are **orange** to see what an acronym stands for, or to learn the name of an important form.

All of this means the handbook is more useful in digital form. The Table of Contents, Glossary, and Resources pages are also interactive, designed to help you track down specific information with the click of a button if you are using the digital version.



WELCOME



FOREWORD



U.S. Immigration and Customs Enforcement

This handbook was developed by the Juvenile and Family Residential Management Unit (JFRMU), Enforcement and Removal Operations (ERO) as an operational guide for Field Office Juvenile Coordinators (FOJC).

This handbook guides ERO staff in processing, transporting, managing, and removing minors encountered by the Department of Homeland Security (DHS). It is based on current U.S. Immigration and Customs Enforcement (ICE) policies and procedures and will assist ERO employees in adhering to legislative mandates, regulations, and court orders when encountering minors and unaccompanied alien child(ren) (UAC).

This handbook refers to current policies, field guidance, and best practices. As there may be amendments or updates to current policies or memorandums, always refer to the most current document. Each field office may have geographic or operational variances that require alterations to certain best practices; ensure all such adjustments comply with the Flores Settlement Agreement, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), and applicable court orders, and receive concurrence from your respective chain of command.

Finally, this handbook is an internal product of ICE. This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create or diminish any rights, substantive or procedural, enforceable by law or equity by any party in any criminal, civil, or administrative matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.

Corey A. Price
Executive Associate Director



TABLE OF CONTENTS

1. Introduction to JFRMU.....	14	2.7 Ms. L Class Action Lawsuit	26	Prevention and Intervention.....	39
1.1 Processing Minors.	16	2.8 Garcia Ramirez	27	3.1.8.3 Separation of Minors by Age, Gender, and Criminality.....	39
1.2 Interactions with Minors	16	2.9 Saravia v. Sessions.....	28	3.1.8.4 Minors with Special Needs	40
1.3 UAC Operational Process.....	16	3. Operational Requirements	30	3.1.8.5 Temporary Housing (Custody Determination or Placement Pending after 12 Hours)	41
1.3.1 Screening.	17	3.1 Processing a UAC	30	3.1.8.6 Searches	41
1.3.2 UAC Processing Timelines.....	18	3.1.1 Apprehension at the Border	30	3.1.9 Meals and Snacks During Transport.....	42
1.3.3 ERO Responsibilities.....	18	3.1.1.1 CBP Voluntary Return following Apprehension at the Border.....	31	3.1.10 Reunification Before ORR Transfer	43
1.4 FOJC Roles and Responsibilities.	19	3.1.2 Age Determination Procedures	31	3.1.11 Request for ORR Placement.....	44
1.5 Training Requirement.....	20	3.1.3 Screening of a UAC	34	3.1.11.1 Criminality Information and Documents	45
2 Legislation and Judicial Matters.....	21	3.1.3.1 Form CBP-93	34	3.1.11.2 Medical Documents.....	46
2.1 The Flores Settlement Agreement	21	3.1.3.2 Form I-770 Notice of Rights and Request for Disposition	34	3.1.12 ERO Required Transportation Notifications.....	46
2.2 Homeland Security Act of 2002.....	22	3.1.4 Screening of ICE Apprehended UAC: Human Trafficking.....	35	3.1.13 Transportation Request	46
2.3 Perez-Fuñez.....	23	3.1.5 HSI Operations Referrals	36	3.1.14 Transport Documents.....	47
2.4 Trafficking Victims Protection Reauthorization Act	23	3.1.6 Minors Who Surrender Themselves to Law Enforcement.....	37	3.1.15 Escort Requirements.....	47
2.5 Violence Against Women Act Reauthorization of 2013.....	24	3.1.7 Child Protective Services.....	37	3.1.16 Requirements for Transfer of Custody to ORR.....	48
2.6 The Prison Rape Elimination Act (PREA) of 2003	25	3.1.8 Operations of ERO Staging/Holding Areas	37	3.1.17 Medical Screening and Medications.....	48
2.6.1 Allegations of Sexual Abuse and Assault.	25	3.1.8.1 Monitoring Minors within Hold Rooms	38		
2.6.2 PREA Reporting for Individuals with Disabilities or Limited English Proficiency (LEP).	25	3.1.8.2 Sexual Abuse and Assault			



TABLE OF CONTENTS

3.1.18 Money, Valuables, and Other Personal Property	48	3.3.2.3 Step 3: Determine and Consider the Least Restrictive Setting Available	68	3.5.4 Sponsorship Breakdown after ORR Release	84
3.1.19 Driving Hours	49	3.3.3 Risk Classification Assessment (RCA) Tool.....	69	3.5.5 Non-UAC Minors with Status.....	85
3.1.20 Use of Restraints	50	3.3.4 Timing: When to Start and When to Stop	69	3.5.6 Accompanied Minors Who Are Delinquent or Are Chargeable as Delinquent	85
3.1.20.1 Use of Restraints while Transferring Minors on ICE Air Flights.....	51	3.3.5 JFRMU Concurrence	70	3.5.7 Accompanied Minors and Notice of Rights to Bond Redetermination	87
3.1.21 Contractor-Led Transport.....	51	3.3.6 Documenting Your Decision – When, Where, and How.....	70	3.5.8 Emancipated Minors.....	87
3.1.22 Transport to ICE Air Operations Flight Line	52	3.3.7 Putting it All Together: Process Overview	71	3.5.9 Married UAC.....	87
3.1.23 Emergency Situations	52	3.3.8 Best Practices	73	3.5.10 ORR Runaway Cases.....	88
3.2 Case Management	52	3.3.9 Documenting Your Decision – When, Where, and How.....	73	3.5.11 Special Immigrant Juvenile Status..	89
3.2.1 Book-In Procedures	53	3.3.10 Putting it All Together: Process Overview	75	3.6 Collection of Biometrics for UAC who turn 14 while in ORR Custody	89
3.2.2 Book-Out Procedures	53	3.3.11 Best Practices	76	3.7 Interactions with FOJC Stakeholders.....	90
3.2.4 Reviewing Charging Documents	54	3.4 Removals and Returns	76	3.8 Local ORR Case Workers	90
3.2.5 Docket Management	57	3.4.1 Electronic Nationality Verification..	80	3.9 Federal Field Specialists	90
3.3 Age-Outs	58	3.5 Specific Case Scenarios	82		
3.3.1 Overview of VAWA 2013.....	58	3.5.1 Law Enforcement Agency Referrals	82		
3.3.1.1 Top 10 Dos and Don'ts	59	3.5.2 Interior ERO Apprehensions	82		
3.3.2 How to Make a Custody Determination under VAWA 2013 ..	61	3.5.3 UAC with Convictions.....	83		
3.3.2.1 Step 1: Analyze Statutory Risk Factors.....	61				
3.3.2.2 Step 2: What Placement Alternatives Are Available?	63				
				4 External Relations.....	91
				4.1 Non-Governmental Organizations.....	91
				4.2 Consulates	92
				5 Points of Contact.....	93



GLOSSARY



Accompanied Alien Child: A non-citizen juvenile who is encountered and who has a parent or legal guardian available to provide care and physical custody.

Adult: Any person 18 years of age or older.

Alien: Any person who is not a United States citizen or national.

Contraband: Any item that aliens are not authorized to have in his or her possession while in the custody of ICE.

Detainee: Any alien booked into an ICE detention facility.

Escort: An officer or contracted transportation specialist who accompanies any person who has been arrested and/or detained under the authorities of ERO during transport or movement.

Exigent Circumstances: A situation requiring unusual or immediate action or aid and that may require ERO officers to circumvent usual procedures (e.g., to prevent imminent danger to life or safety of an officer, the alien or other detainee, or the public; serious damage to property; to forestall the imminent escape of a person in custody; or destruction of evidence).

Family Unit: An adult alien parent or legal guardian accompanied by their own juvenile alien child(ren).

Flight Risk: An alien whom the officer believes may avoid immigration court proceedings and attempt to flee from ICE custody after arrest or in any form of detention, if he or she is not otherwise prevented from doing so.

Full Restraints: ICE-approved handcuffs, waist/belly chain, and leg irons.

Immigration Officer: An employee of the Department of Homeland Security designated as an immigration officer who is authorized to exercise the powers and duties of such officers as specified by the Act (e.g., Border Patrol Agent, Deportation Officer, Special Agent, Customs and Border Protection (CBP) Officer).¹

¹ 8 CFR § 1.2



GLOSSARY

Juvenile: Any person who has not reached 18 years of age.

Minor: Minor means any alien who has not attained 18 years of age and has not been (1) emancipated in an appropriate state judicial proceeding; or (2) incarcerated due to a conviction for a criminal offense in which he or she was tried as an adult. A minor may also meet the definition of “unaccompanied alien child.”

Pat-down Search: When an officer inspects an alien using his or her hands. The inspector uses his or her sense of touch when patting or running the hands over the clothed alien’s body. It is considered the least intrusive of the body searches and should be conducted by a staff member of the same gender. At least one witness will observe if an opposite-gender officer search is necessary. A pat-down does not require the alien to remove clothing, although the inspection includes a search of the alien’s clothing and personal effects.

Search: An inspection of the alien’s person and property for contraband in order to maintain good order and security.

Secure Facilities: Facilities for minors requiring the strictest level of supervision. These facilities have secure perimeters and other features and procedures similar to correctional facilities.

Staff Secure Facilities: Facilities that provide a heightened level of staff supervision, increased communication, and services to control problem behavior or prevent escape.

Tender Age: Any juvenile alien under 10 years of age.

Transport: Using a vehicle to move any person arrested or detained.

Unaccompanied Alien Child: A minor who has no lawful immigration status in the United States, has not attained 18 years of age, and has no parent or legal guardian in the United States, or no parent or legal guardian in the United States who is available to provide care and physical custody.²

Weapon: Any object, item, or device that may be used to cause physical injury, incapacitate, or diminish a person’s capability, either temporarily or permanently.

NOTE

For the purpose of this document, “minors” refers to all individuals under the age of 18, to include both unaccompanied alien children (UAC) and minors accompanied by their parent and/or legal guardian. Minors, children, and juveniles are used synonymously. “UAC” is referenced wherever processing requirements are specific to them.

(b)(7)(E)



LIST OF ACRONYMS



POLICE
ICE

AOR	Area of Responsibility
AORW	Age-Out Review Worksheet
ATD	Alternatives to Detention
BP	U.S. Border Patrol
CBP	Customs and Border Protection
CIS	Central Index System
CPS	Child Protective Services
CSO	Compliance Standards Officers
DCO	Docket Control Office
DHS	Department of Homeland Security
EABM	Enforce Alien Booking Module
EADM	Enforce Alien Detention Module
EARM	Enforce Alien Removal Module
ENV	Electronic Nationality Verification
EOIR	Executive Office for Immigration Review
ERO	Enforcement and Removal Operations
FAMU	Family Units
FFS	Federal Field Specialist
FMC	Field Medical Coordinator
FOD	Field Office Director
FOIC	Flight Officer in Charge
FOJC	Field Office Juvenile Coordinators
FRS	Family Residential Standards
FSA	Flores Settlement Agreement
HHS	Department of Health and Human Services
HSI	Homeland Security Investigations



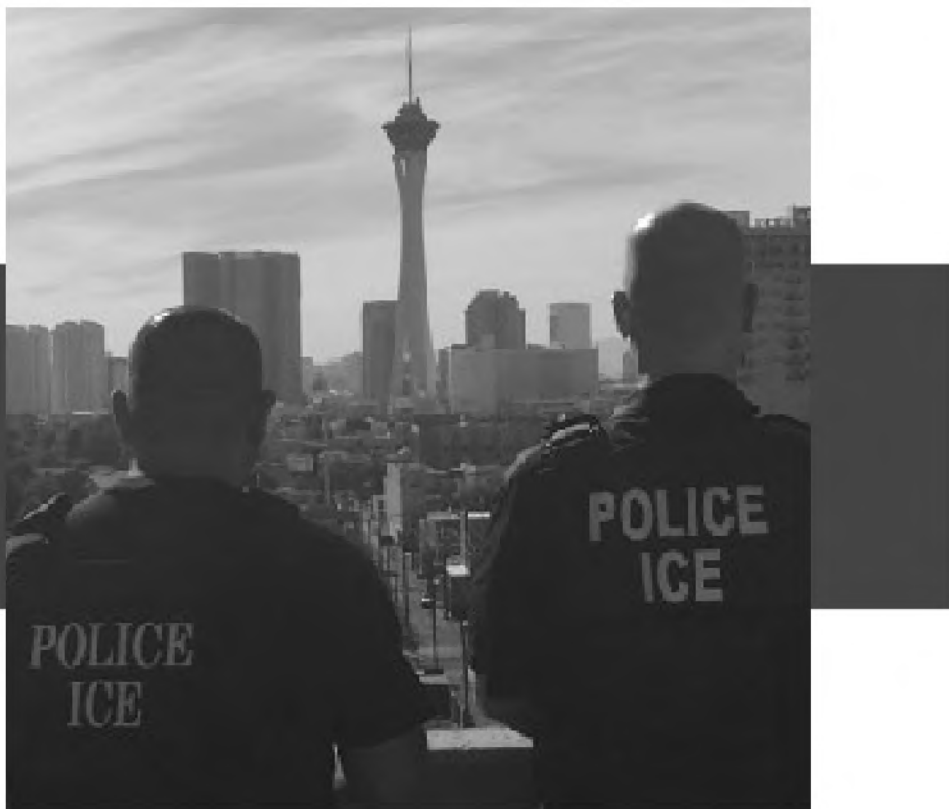
ACRONYMS

HSA	Health Services Administrator	ORR	Office of Refugee Resettlement
I-213	Record of Removability	OSUP	Order of Supervision
I-770	Notice of Rights and Request for Disposition	OTM	Other than Mexican
I-830	Change of Address	PCQS	Person Centric Query Service
I-862 or NTA	Notice to Appear	POE	Port of Entry
IAO	ICE Air Operations	PREA	Prison Rape Elimination Act of 2003
ICE	Immigration and Customs Enforcement	RCA	Risk Classification Assessment
IHSC	ICE Health Services Corps	SAAPI	Sexual Abuse and Assault Prevention and Intervention
IJ	Immigration Judge	SDDO	Supervisory Detention and Deportation Officer
INA	Immigration and Nationality Act	SIJS	Special Immigrant Juvenile Status
JFRMU	Juvenile and Family Residential Management Unit	SIR	Serious/Significant Incident Report
LEA	Law Enforcement Agency	SME	Subject Matter Expert
LEO	Law Enforcement Officer	TD	Travel Document
LEP	Limited English Proficiency	TECS	Treasury Enforcement Communications System
LPR	Lawful Permanent Resident	TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
MEDPAR	Medical Payment Authorization Request	UAC	Unaccompanied Alien Child(ren)
NCIC	National Crime Information Center	USCIS	U.S. Citizenship and Immigration Services
NGO	Non-Governmental Organization	VAS	Victim Assistant Specialist
NJC	National Juvenile Coordinator	VAWA	Violence Against Women Act Reauthorization of 2013
NTA	Notice to Appear		
OFO	Office of Field Operations		
OPLA	Office of the Principal Legal Advisor		
OREC	Order of Recognizance		



U.S. Immigration
and Customs
Enforcement

RESOURCES



JFRMU

JFRMU E-mail: (b)(7)(E)@ice.dhs.gov

UAC Initial Placement Referral Form

If UAC Portal is unavailable, the UAC Initial Placement Referral Form is located here on the JFRMU intranet: (b)(7)(E)

(b)(7)(E)

ORR

ORR Intakes: (b)(7)(E)@acf.hhs.gov (send with read receipt)

Phone: (b)(7)(E)

Fax: (202) 401-1022

Placement hours: 9:00 a.m. – 9:00 p.m. EST. After hours placement in emergency or tender age situations.

Legal Authorities

1. 8 C.F.R. § 208.6 and §1208.6.
2. 8 C.F.R. § 236.3(h)
3. 8 CFR § 1.2
4. 8 U.S.C. § 1232(a)(2)(A)
5. Flores Stipulated Settlement Agreement (January 17, 1997)
6. Flores v. Lynch – July 2016 appellate court opinion
7. Homeland Security Act of 2002



RESOURCES

Legal Authorities (continued)

8. Immigration and Nationality Act
9. Perez-Funez v. District Director, 611 F. Supp. 990 (C.D. Cal. 1984) (preliminary injunction ordered), 619 F. Supp. 656 (C.D. Cal. 1985) (permanent injunction ordered)
10. Prison Rape Elimination Act of 2003
11. DHS Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement
12. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)
13. Violence Against Women Act Reauthorization of 2013 (VAWA)

ERO Broadcasts, Field Guidance, Policies, Manuals/Handbooks

1. Age-Out Review Worksheet
2. Broadcast: Interim Guidance Regarding the Use of Restraints while Transferring Minors on ICE Air Flights.
3. Broadcast: Screening of Unaccompanied Alien Children (UAC) Apprehended by ICE for Human Trafficking Indicators, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, February 4, 2016.
4. Broadcast: Tracking ORR Runaway Cases, Department of Homeland Security, Immigration and Customs Enforcement.
5. Broadcast: UAC Shelter Book Out Procedures, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, March 21, 2015.
6. Broadcast: Unaccompanied Alien Children (UAC) Book-ins, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, July 23, 2015.
7. ERO Broadcast: "Service of the Notice to Appear (NTA) on Unaccompanied Alien Children (UAC)," August 22, 2016
8. ERO Deferred Action for Childhood Arrivals Checklist" for guidance arresting/removing individuals under the age of 31 as of June 15, 2012
9. Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § E, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.



RESOURCES

ERO Broadcasts, Field Guidance, Policies, Manuals/Handbooks (continued)

10. [Age Determination Procedures for Custody Determination, Policy Number ERO 113014, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, December 11, 2015.](#)
11. [ICE Policy Directive No. 1106.2.2: Sexual Abuse and Assault Prevention and Intervention \(SAAPI\) \(May 22 2014\).](#)
12. [ICE Policy Directive No. 110871: "Operations of ERO Holding Facilities" \(September 22, 2014\)](#)
13. [ICE Policy No. 10074.2: "Issuance of Immigration Detainers by ICE Immigration Officers"](#)
14. [James M. Chaparro, Sharing Information with the Department of Health and Human Services Office of Refugee Resettlement, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, November 30, 2010](#)
15. [National Age Out Shelter List](#)
16. [Repatriation and Custody Transfer of UAC in ICE Custody to Foreign Government Officials, Policy 110491, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, April 17, 2008](#)
17. [Use of Restraints, Policy ERO 11155.1, Department of Homeland Security, Immigration and Customs Enforcement, November 19, 2012.ERO](#)





RESOURCES

Broadcasts, Field Guidance, Policies, Manuals/Handbooks (continued)

18. John P. Torres: "Update to the Detention and Deportation Officers Field Manual: Appendix 16-4, Part 2; Enforcement Standard Pertaining to the Escorting of Aliens", January 31, 2008
19. Enforcement and Removal Operations: Fugitive Operations Handbook, October 30, 2018.

Other

1. (b)(7)(E)
2. Verify validity of an address: (b)(7)(E)

(b)(7)(E)





SECTION 1

1. Introduction to JFRMU

The Juvenile and Family Residential Management Unit (**JFRMU**) is a dedicated, high-level operational unit created to manage issues related to detaining alien minors and families by Immigration and Customs Enforcement (**ICE**). Within Enforcement and Removal Operations (**ERO**), **JFRMU** oversees the implementation of policy and practices related to the needs of Unaccompanied Alien Children (UAC) and family groups who enter **ERO** custody. **JFRMU** supports **ERO**'s mission: to enforce the nation's immigration laws in a fair and effective manner. **JFRMU** sets standards and expectations to identify removable aliens, detain these individuals when necessary, and remove illegal aliens from the United States. **JFRMU** works primarily with recent border entrants and individuals seeking asylum and ensures that these individuals receive due process and just treatment as they move through immigration proceedings.

In addition to supporting **ERO**'s mission, **JFRMU** focuses on creating policy and issuing field training regarding best practices and appropriate interactions with all minors and families according to their developmental needs. Additionally, **JFRMU** is responsible for the Family Residential Standards (**FRS**) and oversees an independent compliance program that inspects family residential centers. **JFRMU** established and now oversees transportation of **UAC** and family units (**FAMU**) and is responsible for nearly all **UAC** transports nationwide.





SECTION 1

ERO complies with the Department of Homeland Security (DHS) regulations implementing the Prison Rape Elimination Act, “Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities,” [6 CFR Part 115 et seq.](#) (DHS PREA), as well as [ICE Directive No. 11062.2](#), “Sexual Assault and Abuse Prevention and Intervention” (May 22, 2014). JFRMU team members monitor facility compliance with these rules and regulations. Team members coordinate with investigative bodies and work with ERO field offices to implement new operational protocols in response to investigative and/or compliance related findings.

Externally, JFRMU coordinates with DHS’s Customs and Border Protection (CBP), the Department of Health and Human Services’ (HHS) Office of Refugee Resettlement (ORR), and non-governmental organizations (NGOs). Internally, JFRMU trains, monitors, and advises Field Office Juvenile Coordinators (FOJCs), who serve as their field offices’ subject matter experts (SMEs) on juvenile and family matters. JFRMU coordinates trainings and issues guidance on appropriate case management for minors and families in ICE custody, and FOJCs in turn advise their ICE colleagues and others who support JFRMU in fulfilling ICE’s mission.

JFRMU’s experienced and diverse staff embodies the spirit of this mission. Our National Juvenile Coordinators (NJC) provide guidance and technical assistance to ERO field offices located throughout

the United States. The Compliance Standards Officers (CSO) provide ongoing and independent review of Family Residential Center operations and compliance with the FRS. JFRMU’s administrative staff oversees contracts and training, develops policy, and manages internal and external communications. Highly trained and specialized contract staff support various initiatives.

JFRMU’s experienced and diverse staff embodies the spirit of this mission. Our National Juvenile Coordinators (NJC) provide guidance and technical assistance to ERO field officers located throughout the United States. The National Family Coordinator and Compliance Officers provide ongoing and independent review of facility operations and compliance with the FRS. JFRMU’s administrative staff oversees contracts, drafts and issues policy, and manages internal and external communications. Highly trained and specialized contract staff support various initiatives.



SECTION 1

1.1 Processing Minors

FOJCs are responsible for identifying, processing, coordinating transportation of UAC and FAMU using JFRMU's domestic transportation contract, and managing UAC dockets. FOJCs must continually consider the unique needs and differences minors have from traditional adult populations.

Because of minors' unique needs and developmental differences, processing and issuing minors' charging documents often take priority over all other immigration processing, with very young children receiving one of the highest priorities.³ Placing tender-age UAC into appropriate housing, in cooperation with ORR, is among one of the highest priorities.

1.2 Interactions with Minors

Minors think, act, and react differently from adults. Developmentally speaking, minors do not have the same comprehension levels as adults, and comprehension levels vary greatly from very young children to teenagers. ERO officers and contractors are required to consider language, culture, and possible prior traumatic experiences during encounters with minors. In addition, like adults, many minors may have been preconditioned to respond to police and other government authority figures with distrust and/or fear.

When speaking to a minor, plain language expressed in an age-appropriate tone is most effective. The FOJC may be the first plain-clothes officer that a minor interacts with; it's recommended that the officer take the opportunity to build rapport with the minor and help them feel safe while in ERO custody.

1.3 UAC Operational Process

Several DHS components retain responsibilities for apprehending and managing UAC, FAMU, and other minors. CBP, including its U.S. Border Patrol (BP) and Office of Field Operations (OFO), and ICE's ERO apprehend, detain, process, transport, and repatriate these groups. ICE's Homeland Security Investigations (HSI) also apprehends these groups; however, ERO retains immigration-related responsibilities such as case management for all individuals placed in immigration proceedings.

Upon a UAC's arrival to a DHS processing area, the apprehending DHS officer takes fingerprints of UAC 14 years and older and initiates a search in the IDENT system to determine any prior apprehensions and to verify identity. The officer also initiates a criminal record check to verify if the UAC has a criminal history.

³ ERO Broadcast: "Service of the Notice to Appear (NTA) on Unaccompanied Alien Children (UAC)," August 22, 2016



SECTION 1

1.3.1 Screening

The **TVPR**A requires that all **UAC** who are apprehended at a land border or Port of Entry (POE) from a country contiguous with the United States, undergo a screening process (within 48 hours) prior to repatriation if they express a wish to withdraw their request for admission⁴. As a matter of policy, **CBP** also screens all **UAC** that they encounter in order to identify any indicators of human trafficking or fear of return to their home country. **CBP** will refer potential human trafficking cases to **HSI** for further investigation.

ERO officers screen any newly encountered **UAC** in the interior for indicators of human trafficking. If the **UAC** indicates potential victimization within the United States during screening or at any time, the local **HSI** office and **ORR** must be notified.

Under the **TVPR**A, Mexican and Canadian **UAC** may be permitted to withdraw their application for admission if they meet the following criteria: possesses the ability to make an independent decision to withdraw the application for admission to the United States, does not have a fear of returning to his or her country of origin, and has not been a victim of trafficking and there is no credible evidence the minor is at risk of being trafficked if returned to the country of origin. All **UAC** whom **DHS** seeks to remove from the United States should be placed in removal proceedings under § 240 of the Immigration and Nationality Act (**INA**). The **TVPR**A prohibits **ERO** from granting Voluntary Return, effecting Expedited Removal, or reinstating the prior removal order of any **UAC**.

NOTE

Requirements for screening **UAC** are covered in greater detail in Section 3 of the handbook.

⁴ (8 U.S.C. § 1232(a)(2)(A))



SECTION 1

1.3.2 UAC Processing Timelines

Processing requirements differ for **UAC**. By law, all UAC must be transferred from **DHS** custody, except in the case of exceptional circumstances, to **ORR** custody within 72 hours of their identification as an unaccompanied minor. Upon apprehension—and if not repatriated at the border—once processed, all UAC placed in immigration proceedings are transferred to ORR.

Once ORR designates placement of UAC, in accordance with local agreements, **CBP** or **ERO** transport UAC to ORR custody. ERO conducts local and long-distance transports using the transportation provider contracted by **JFRMU**. ORR houses UAC in children's shelters, staff-secure, and secure facilities. ORR also maintains bed space in residential treatment facilities for minors with special needs. ORR places young children or UAC who are accompanied by their own children in foster care or facilities with permits to house young children and infants.

The UAC will remain in ORR custody until released to a sponsor or transferred to foster care. ERO initiates § 240 proceedings, maintains general UAC case management, resolves any issues with the Alien File (A-File) and Notice to Appear (NTA) to ensure proper service, and works with the Office of the Principal Legal Advisor (OPLA) to file the **NTA** with the Executive Office for Immigration Review (EOIR). UAC may apply for various immigration benefits through U.S.

Citizenship and Immigration Services (USCIS), including asylum and visas designed to assist victims of crimes, abuse and neglect, domestic violence, and human trafficking.

Although CBP may repatriate some Mexican and Canadian UAC at the border, ERO retains responsibility for repatriating UAC ordered removed by an Immigration Judge (IJ). ERO no longer offers, as a matter of law, voluntary return or voluntary departure to any UAC apprehended in the United States from non-contiguous countries. ERO may, under limited circumstances, allow a UAC from a contiguous country who is apprehended at a land border or **POE** to withdraw his or her application for admission, if the UAC is properly screened and if return occurs within 48 hours of apprehension. In these situations, ERO should contact CBP for assistance in processing and repatriation.

1.3.3 ERO Responsibilities

Because of their unique needs, minors in **ICE** custody must be given special consideration as to their safety, security, immediate physical and mental health needs, and well-being. All minors and **FAMU** are to receive priority for processing and transportation above all other aliens in ICE custody. Additionally, ERO will process and transport verified FAMU including adult parent(s) and/or legal guardian(s) with their own minors together and with special consideration. This includes minors who may be accompanied by their own child(ren).



SECTION 1

14 FOJC Roles and Responsibilities

FOJCs play an integral role in apprehending and processing UAC. FOJCs serve as the local SMEs who provide policy guidance within their respective areas of responsibility. FOJCs are on call 24/7, as call-outs may be necessary to assist with the processing and placement of UAC. FOJCs are also responsible for facilitating arrangements between the arresting agencies (CBP or ICE) and the placement agency (ORR).⁵

When a UAC is encountered and transported to a hold room, the FOJC is responsible for ensuring that staff separate minors from unrelated adults. The FOJC must also account for the minor's age, gender, and criminality when processing and requesting placement of the UAC. Per the [Flores Settlement Agreement](#),⁶ it is the responsibility of the FOJC to ensure that minors are held in appropriate temporary holding cells that are safe, sanitary, and that provide access to toilets and sinks. The FOJC must ensure that the temporary hold room has adequate temperature control and provides adequate supervision to protect minors from others. In addition, the FOJC must also ensure that the UAC have access to drinking water,

⁵ Per the [Homeland Security Act of 2002](#), HHS was given sole authority to make decisions on placement, transfer, and release of any UAC. The FOJC can recommend a placement location; however, ORR will ultimately make the determination on where a UAC will be placed.

⁶ On July 6, 2016, the Ninth Circuit Court of Appeals issued its ruling on DHS' appeal, affirming in part and reversing in part the July and August 2015 orders issued by the United States District Court for the Central District of California. See [Flores v. Lynch](#), No. 15-56434, 828F.3d 898 (9th Cir. Jul. 6, 2016). ICE continues to act as expeditiously as possible to process families in ICE Family Residential Centers, by generally limiting the average time in detention for all accompanied minors in the credible fear process to a target of 20 days. ICE also continues to seek licensing for the Family Residential Centers.

juice, milk, food, and snacks. The UAC should also have access to medical assistance. The FOJC should also assist minors by providing them the opportunity for a phone call to their parent, guardian, consular officer, or legal representative, and provide them with a list of free or low-cost legal service providers.

The FOJC is also responsible for managing the dockets of UAC in their Area of Responsibility (AOR), including:

- Following proper book-in and book-out procedures;
- Coordinating with ORR facilities during custody transfers of UAC;
- Coordinating with other FOJCs about A-file transfers, including sending A-files via express mail to the receiving FOJC;
- Ensuring that service of the NTA on UAC is proper;
- Cancelling an NTA if service is not proper, and issuing a new NTA;
- Working with the OPLA to file NTAs with the EOIR court; and
- Coordinating with UAC's consulate for travel documents, including making travel arrangements for the UAC to get repatriated safely to their home country.



SECTION 1

An **FOJC** will also assist with case review and custody redetermination. Other duties include responding to inquiries from parents, legal guardians, legal counsel, case workers, **ORR** Federal Field Specialists (FFS), and consulate representatives. An **FOJC** may also assist with age determinations and coordination with **ORR** shelters for **UAC** who have aged out of **ORR** custody.

1.5 Training Requirement

The **TVPPRA** of 2008 requires specialized training for personnel: The Secretary of State, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Attorney General shall provide specialized training to all Federal personnel, and upon request, State and local personnel, who have substantive contact with unaccompanied alien children. Such personnel shall be trained to work with unaccompanied alien children, including identifying children who are victims of severe forms of trafficking in persons, and children for whom asylum or special immigrant relief may be appropriate including children described in subsection (a)(2).⁷

JFRMU provides this specialized training nationally, on an annual basis. **JFRMU**'s training provides an overview of all requirements and legal authorities for processing **UAC** cases, at every phase in the process from encounter to **ORR** placement and through removal. To keep **FOJCs** updated with the most recent policy, legislation,

regulation and litigation changes, all **FOJCs** will attend the annual training held by **JFRMU**. **FOJCs** are expected to conduct additional trainings, either formal or informal, in their field offices to educate fellow **ERO** officers and staff. **JFRMU** also develops job aids and other supporting guidance as needed.

FOJCs must also participate in monthly conference calls with **JFRMU**. These national conference calls ensure that all **FOJCs** are aware of any operational changes and provide a forum for information dissemination as well as discussion of best practices, challenges, or trends.

⁷ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5075 (December 23, 2008); 8 U.S.C. § 1232(e).



SECTION 2

2. Legislation and Judicial Matters

2.1 The *Flores* Settlement Agreement

In 1997, the [*Flores Settlement Agreement* \(FSA\)](#)⁸ was signed as a result of a class-action lawsuit filed against the Immigration and Naturalization Service (INS). Under the conditions of the *FSA*, the *INS* agreed to uphold the following conditions:

- Minors are placed in the least restrictive detention setting appropriate to the *UAC*'s age and special needs;
- Minors are segregated from unrelated adults during transport and temporary detention;
- Minors are transferred out of temporary locations to a permanent location within 72 hours;
- Minors are treated with "dignity, respect, and with special concern due to vulnerabilities";
- Minors have free and ready access to drinking water, food, and snacks;
- Attorney-client visits are permitted in juvenile facilities; and
- Minors must be placed in a licensed program (i.e., residential center) within three to five days and such facilities must be non-secure as required by State law, except that minors deemed to be delinquents, criminals, or who meet other specific factors under the *FSA* may be placed in secure facilities.

⁸ [Flores Stipulated Settlement Agreement, January 17, 1997](#) and [Flores v. Lynch, No. 15-56434, 828 F.3d 898 \(9th Cir. Jul. 6, 2016\)](#).





SECTION 2

Adherence to the *FSA* conditions extends to *INS*' successor, *DHS*. *HHS ORR* is also bound by the provisions of the *FSA*. Recent litigation and court rulings have determined that the *FSA* applies to accompanied minors as well, including those who enter as members of *FAMU*. In addition to those items listed above, additional Flores advisals and Notice of Right to Judicial Review are required (*See Flores v. Lynch*, No. 15-56434, -828 F3d 898 (9th Cir. Jul. 6, 2016)).

2.2 Homeland Security Act of 2002

On March 1, 2003, pursuant to the Homeland Security Act of 2002 (6 U.S.C. § 279), *ORR* assumed the authority for decisions related to the care and placement of *UAC* in Federal custody. *ORR* takes the minor's best interests into consideration by:

- Defining *UAC*;
- Making placement determinations for all *UAC*;
- Identifying a sufficient number of qualified individuals, entities, and facilities to house *UAC*;
- Overseeing the infrastructure and personnel of facilities in which *UAC* reside;
- Reuniting *UAC* with a parent abroad in an approved case; and/or
- Reuniting *UAC* with parents or legal guardians within the United States.

While *UAC* are in the agency's care, *ORR* must ensure that the *UAC*:

- Appear for all immigration hearings/proceedings in which they are involved;
- Remain protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity;
- Are placed in a setting in which they are not likely to pose a danger to themselves or others.⁹

NOTE

Check out the Legal Authorities Job Aid and Overview of Legal Authorities video on the (b)(7)(E)

⁹ The Homeland Security Act of 2002, Pub. L. No. 107-296, November 25, 2002.



SECTION 2

2.3 Perez-Fuñez

Perez-Fuñez¹⁰ is a class action lawsuit challenging the manner in which INS implemented voluntary departure procedures and resulted in both a preliminary injunction and a permanent injunction issued in 1984 and 1985 respectively. The case involves two consolidated actions against INS: *Jose Antonio Perez-Fuñez, v. District Director and Yanira Pena and Claudia Pena v. Immigration and Naturalization Service*. The two plaintiffs challenged the way INS implemented its voluntary departure procedures as it pertained to UAC.

The injunction orders that any person taken into custody by the INS who is under the age of 18 and not accompanied by at least one of his or her lawful parents:

- Be verbally advised of rights verbatim, in English, Spanish, or any language understood by the UAC;
- Be provided a copy of the written notice and a copy of a list of free or low-cost legal services; and
- Sign the acknowledgement on a separate copy of the notice indicating the notices have been provided and are understood.

It also outlines the UAC's rights to be represented by an attorney, to a hearing before an IJ, to apply for asylum, and to apply for voluntary departure.¹¹

Pursuant to 8 C.F.R. § 236.3(h), Notice of Rights and Request for Disposition (Form I-770) must be issued to all minors apprehended by DHS. The I-770 also provides instructions to DHS officers on meeting their obligations under the purview of law. See Section 3.1.3.2 "Form I-770 Notice of Rights and Request for Disposition" for additional instruction.

24 Trafficking Victims Protection Reauthorization Act
Signed into law on December 23, 2008, and reauthorized in 2013, the TVPRA is the most recent and comprehensive law that governs the apprehension, detention, and processing of UAC.¹² Where the *FSA* applies to any minor in ICE custody, TVPRA specifically governs detention conditions for UAC in ORR custody. The TVPRA significantly affects DHS operations at POEs, at the northern and southern borders of the United States, and in the interior of the United States.

¹⁰ Perez-Fuñez v. District Director, 611 F. Supp. 990 (C.D. Cal. 1984) (preliminary injunction ordered), 619 F. Supp. 656 (C.D. Cal. 1985) (permanent injunction ordered)

¹¹ Perez-Fuñez v. District Director, 611 F. Supp. 990 (C.D. Cal. 1984).

¹² The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5077 (December 23, 2008); 8 U.S.C.



SECTION 2

The provisions of the TVPRA:

- Outline the definition of an UAC;
- Establish age determination procedures;
- Define the conditions of release reunification;
- Establish a screening process and eligibility for UAC from contiguous countries who may request voluntary return/withdrawal of application;
- Establish the time limit after screening process to notify HHS upon the initial encounter of UAC (48 hours);
- Establish in law the maximum transfer time for custody transfer of UAC to ORR (generally 72 hours, with some exceptions);
- Establish requirements for UAC to be placed in removal proceedings under § 240 of the INA;
- Transfer Special Immigrant Status authorization from DHS to USCIS;
- Eliminate expedited removal proceedings, reinstatement of prior removal orders, and voluntary departure (without seeing a judge) if not from contiguous countries.

2.5 Violence Against Women Act Reauthorization of 2013

The Violence Against Women Act Reauthorization of 2013 (VAWA) affords services and protections to specific populations of minor non-citizens, including unaccompanied children who turn 18 years old while in the custody of the Office of Refugee Resettlement. VAWA § 1261 requires that unaccompanied children who are transferred from HHS to DHS when they turn 18 shall be considered for placement in the least restrictive setting available after taking into account the individual's danger to self and the community, and risk of flight. The statute further requires that

NOTE

Check out the TVPRA Time Requirements for Unaccompanied Alien Children (UAC) Flowchart (b)(7)(E) (b)(7)(E)



SECTION 2

these individuals shall be eligible to participate in programs that use a continuum of alternatives to detention based on the need for supervision.¹³

2.6 The Prison Rape Elimination Act (PREA) of 2003 PREA was signed into law in 2003 and promulgated in the 2014 DHS regulation titled, “Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities”. ICE has a zero-tolerance policy for all forms of sexual abuse or assault. It is ICE policy to provide effective safeguards against sexual abuse and assault of all individuals in ICE custody. Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention (SAAPI) establishes ICE policies and procedures to implement the DHS regulation. The SAAPI Directive contains responsibilities for reporting; protection; response; and medical, mental health, and rape crisis advocacy representatives for victims. Further information regarding ICE’s PREA requirements are available here: (b)(7)(E)

(b)(7)(E)

2.6.1 Allegations of Sexual Abuse and Assault

Definitions of sexual abuse and assault are set forth in Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention 3.

All allegations of sexual abuse and assault will be reported immediately in accordance with Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention 5.3 and 5.7.

Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention 5.4 requires that if an ICE employee has a reasonable belief that anyone is subject to a substantial risk of imminent sexual abuse or assault, that employee will take immediate action to protect the individual.

2.6.2 PREA Reporting for Individuals with Disabilities or Limited English Proficiency (LEP)

In accordance with Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention 5.6, individuals with disabilities or LEP shall have an equal opportunity to participate in, or benefit from, all aspects of ICE’s efforts to prevent, detect, and respond to sexual abuse and assault.

In-person or telephonic interpretive services shall be provided as set forth in Directive 11062.2: Sexual Abuse and Assault Prevention and Intervention 5.6.

¹³ The Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4 § 1261, March 7, 2013.



SECTION 2

2.7 Ms. L Class Action Lawsuit

In 2018, a proposed settlement was reached in the following class action lawsuits regarding the way certain separated parents and children may pursue asylum or other protection in the United States.

- Specific claims in *Ms. L v. U.S. Immigration and Customs Enforcement*, No. 18-428 S.D. Cal. June 26, 2018;
- *M.M.M v. Barr*, No. 18-1835 S.D. Cal. July 27, 2018;
- *Dora v. Barr*, No. 18-1938 D.D.C. August 27, 2018.

A parent may be a member of the Parent Settlement Class if he or she:

- Is an adult alien parent who entered the United States at or between designated ports of entry with his or her child(ren) who before the date of the agreement (November 15, 2018):
- Was detained in immigration custody by **DHS**;
- Has a child who was or is separated from him or her by DHS and who was in DHS custody, **ORR** custody, or ORR foster care on or after June 26, 2018; and
- Has been continuously physically present in the United States since June 26, 2018.

A child may be a member of the Child Settlement Class if he or she:

- Is an alien child under the age of 18 as of the effective date of the agreement, (November 15, 2018), who:
- Entered the United States at or between designated **POEs**

with an alien parent;

- Was separated from their parent(s) by DHS on or before November 15, 2018);
- Has been or will be reunified with his or her parent(s) under the preliminary injunction issue in *Ms. L. v. U.S. Immigration and Customs Enforcement*, No. 18-428 (S.D. Cal. June 26, 2018); and
- Has been continuously physically present in the United States since June 26, 2018.

In 2019, the Ms. L Class was expanded to include all adult parents who entered the United States at or between designated POEs on or after July 1, 2017.

The class does not include alien parents with a criminal history or communicable disease, or those encountered in the interior of the United States.

The Judge overseeing the lawsuits temporarily stopped removals of families that were reunited after being separated at the border. The plaintiffs and the U.S. government subsequently agreed to a settlement, which grants both parents and children access to procedures to seek asylum or other protection from removal in the United States.



SECTION 2

Class members covered by this agreement cannot be removed unless the government receives a settlement election form. For information regarding the applicable terms of the agreement to a specific case, please contact your local **OPLA** field office.

2.8 Garcia Ramirez

In August 2018, the U.S. District Court for the District of Columbia certified a class defined as all “former [UAC] who are detained or will be detained by ICE after being transferred by ORR because they have turned 18 years of age and as to whom ICE did not consider placement in the least restrictive setting available, including alternatives to detention programs, as required by [VAWA 2013].” On July 2, 2020, the court issued its Findings of Fact and Conclusions of Law Concerning Liability and set forth the steps ICE must take when making an age-out custody determination under VAWA 2013. The Court found that VAWA 2013 requires ICE to (1) take into account for each individual age-out, the statutory factors of danger to self, danger to community, and flight risk; (2) do so as it considers placement in the least restrictive setting available; and (3) make each age-out eligible for alternatives to detention.

Among other things, the Court found that:

- “ICE officers must be able to identify what available setting would be least restrictive. This requires making an inquiry into available placements for age-outs that ICE officers throughout the country frequently do not undertake.”
- ICE HQ did not “train officers on proper decision making” and was giving guidance that was contrary to the statute.
- ICE was lacking practices that could facilitate compliance with the statute, and instead left it to the field officers’ discretion.

On September 21, 2021, the Court permanently enjoined ICE from violating VAWA 2013 by repeating the violations and failures to comply described in the July 2, 2020 decision. The Court also ordered that ICE take specific actions relating to documentation, mandatory training, and periodic reporting, among other things, for a period of five (5) years. In light of the Court’s decision, revisions have been made to age-out training materials and the [Age-Out Review Worksheet](#), but it remains imperative that age-outs and custody determinations for age-outs are identified, tracked, and thoroughly documented. Age-Out training materials, the [FOJC Handbook](#), and [National Age-Out Shelter List](#) are available on the ICE intranet.



SECTION 2

The permanent injunction requires ICE to train FOJCs on making placement determinations in compliance with VAWA 2013 and the Court's July 2, 2020 decision, using approved training materials and the revised [Age-Out Review Worksheet](#) (AORW). Pursuant to the Court's permanent injunction, training must occur within 60 days of the court's order, annually, and at least once a calendar quarter as part of FOJC on-boarding.

2.9 Saravia v. Sessions

In November 2017, the U.S. District Court for the Northern District of California issued an order granting a nationwide preliminary injunction that directly impacts the arrest and detention of minors. The injunction applies to alien minors who:

- arrived in the United States as a UAC;
- were previously detained by ORR and then released to a sponsor; and
- were arrested or will be rearrested by DHS on or after April 1, 2017, and there is an indicia of gang membership or affiliation.

The agreement requires that ICE provide training to all officers and agents who come into contact with class members and make job aids, including the [Saravia Flowchart](#), available. ICE must vet minors being targeted in enforcement actions to determine class membership. Rearrests must be reported to class counsel.

If a class member is rearrested, ICE will issue a notice of a Saravia hearing, which will be served to the minor in person and to the sponsor of record by mail, e-mail, or in person. The notice will also be provided to Saravia class counsel and the minor's immigration counsel if he or she has one.

- The notice (appendix 2) will:
- Specify that the class member may choose to have the Saravia hearing in the jurisdiction of arrest, jurisdiction of residence, or jurisdiction of detention.
 - Explain the nature of the proceedings, the legal authority under which the proceedings are conducted, and the specific acts or conduct that provide the authority for the arrest.
 - The notice will be served on the minor and his or her immigration counsel within 48 hours of rearrest.
 - ICE will file the Saravia notice with the immigration court in the jurisdiction of rearrest as soon as practicable.

Class members are entitled to a Saravia hearing within 10 days of rearrest, unless a continuance is granted or venue is changed. Class members may request a continuance before or after the government presents its case. ICE will not oppose an initial request for continuance. Other continuances may be granted for good cause or due to other causes such as court closure.



SECTION 2

The burden of proof at Saravia hearings is on **ICE** to establish that circumstances have changed such that the class member now presents a danger to the community or is a flight risk. If the minor prevails at the Saravia hearing and is in ICE custody, he or she will be released to the prior sponsor or parent/legal guardian. Other provisions apply to minors in **ORR** custody.



SECTION 3

3. Operational Requirements

3.1 Processing a UAC

The TVPRA requires that all UAC whom DHS seeks to remove from the United States be placed in removal proceedings under §240 of the INA. The removal order of a UAC may not be reinstated, nor as a matter of law may a UAC be placed in expedited removal. ICE may release a UAC only to a parent or legal guardian who is in possession of legal documents supporting the validity of the claimed relationship. ICE must transfer the custody of all UACs to ORR within the 72 hour time frame indicated in the TVPRA.

3.1.1 Apprehension at the Border

Most UAC are apprehended by CBP at points along the Southwest border and at POEs. CBP requests placement from ORR and processes and houses UAC while ORR identifies bed space for the minor. It is ICE policy not to accept the custody of UAC from CBP until bed space has been designated. Transportation from CBP housing to ORR shelters is a shared responsibility between CBP and ERO. JFRMU's transportation contractor coordinates extensively with CBP and ORR regarding the custody transfer and transport of UAC.





SECTION 3

3.1.1.1 CBP Voluntary Return following Apprehension at the Border

The TVPRA allows for special rules for minors from contiguous countries to the United States (Mexico and Canada). A UAC who is a national of either of these countries, once screened by CBP for human trafficking or fear of return, may be permitted to withdraw his or her application for admission to the United States.

Through a detailed screening process, CBP will determine whether a UAC has been a victim of trafficking, and whether there is credible evidence that the minor will be trafficked upon returning to his or her home country. CBP also considers UAC's ability to make an independent decision and whether the UAC fears returning home or persecution.

An immigration officer, in most cases a CBP officer, who finds that a UAC meets the above criteria at a land border or POE of the United States, and determines that such a child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), may:

- Permit such a child to withdraw his or her application for admission (voluntary return) pursuant to § 235(a)(4) of the

Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

- Return such a child to his or her country of nationality or country of last habitual residence.¹⁴

If the UAC does not meet such criteria or if no determination can be made within 48 hours of apprehension, the UAC must be immediately transferred to ORR.¹⁵

The TVPRA prohibits ERO from granting voluntary return, effecting expedited removal, or reinstating the prior removal order of any UAC. To pursue a UAC's removal from the United States, DHS must serve an NTA and place him or her in removal proceedings under § 240 of the INA.¹⁶

3.1.2 Age Determination Procedures

In cases where the age of an alien is in question, the TVPRA requires that age-determination procedures include reviewing multiple forms of evidence. Under these procedures, each case must be evaluated carefully based on the totality of all available evidence, including the statement of the individual in question.

¹⁴ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5075 (December 23, 2008); 8 U.S.C. § 235(a) (2) (B).

¹⁵ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5076 (December 23, 2008); 8 U.S.C. § 235(a) (4).

¹⁶ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § E, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.



SECTION 3

Determining the age of an individual can prove challenging for many reasons, including:

- Lack of documentation;
- Contradictory or fraudulent identity documentation or statements;
- Physical appearance of the alien; and/or
- Diminished capacity of the alien.

Until a determination can be made, the alien must also immediately be separated from unrelated adults and minors.¹⁷ ERO determines the age of individuals in custody consistent with “[ORR Policy Guide Children Entering the United States Unaccompanied, 1.6: Determining the Age of an Individual without Lawful Immigration Status](#)” (August 28, 2015). When an individual claims to be a minor, he or she must be provided all of the services provided to minors until a formal age determination can be made. Although minors must be separated from unrelated adults, the use of traditional segregation is to be avoided.

Acceptable documentation for age determination includes:

- Official government-issued documents, including birth certificates. If a document’s authenticity is in question, or the alien does not possess documentation, verify the validity of the

alien’s claim by contacting government officials of the alien’s home country; and

- Other objective documentation (e.g., baptismal certificates, school records, medical records) that indicate the alien’s date of birth.

Acceptable statements by individuals (including the one whose age is in question) asserting personal knowledge of the alien’s age, and who ERO concludes can credibly attest to the person’s age include:

- Statements provided by the individual regarding his/her age or birth date (an alien’s uncorroborated declaration regarding his/her age should not be used as the sole basis for an age determination);
- Statements from the alien’s parent(s) or legal guardian(s), if such persons can be identified and contacted; and
- Statements from other persons.

Information from another government agency (Federal, State, local, or foreign) may include:

- State/local arrest records;
- Child welfare agency records; and
- Consular records.

¹⁷ Note: Follow the regulatory confidentiality protections afforded to asylum seekers and other protected classes when interacting with third parties, as provided in [8 C.F.R. § 208.6](#) and [§1208.6](#).



SECTION 3

As a last resort, age assessment procedures (e.g., dental and skeletal [bone] maturity assessments using x-rays or other medical techniques identified by the Age Determination Procedures for Custody Determination TPU 3 medical community as appropriate) may be used when no conclusive information is available.

- The examination will be performed by a medical professional experienced in age assessment method(s), considering the individual's ethnic and genetic background.

As no medical assessment method can determine an exact age, **ORR** policy uses the estimated probability in determining the age of the individual in making the age determination based on the totality of the evidence.

The **FOJC** can request assistance with medical age assessment from the ICE Health Services Corps (**IHSC**) by initiating a Medical Payment Authorization Request (MedPar) through the **IHSC** Managed Care Branch. **IHSC** will coordinate with a licensed and credentialed forensic practitioner and will provide a written report to the case officer on the same day as the examination, if possible. The report will detail the forensic method used to determine age, and the probability that the alien is a minor or an adult.

The medical age assessment reporting process is as follows:

- The examining doctor submits a written report indicating the

probability percentage that the individual is a minor or an adult;

- The Field Office Director (FOD) or designee Supervisory Detention and Deportation Officer (SDDO) reviews the medical report; and
- If the probability of an individual being 18 years old or older is 75 percent or greater, and the totality of the evidence suggests the person is an adult, process the individual as an adult.

The final age determination will be made by the **FOD**, or designee, based on the totality of evidence provided. The FOD will promptly evaluate new information regarding the age of the individual in **ERO** custody if presented by the individual, his/her family, and or legal representative.

The **FOJC** maintains a record of results, especially radiographic (x-ray) results, in appropriate fields of the **ENFORCE** Alien Removal Module (EARM) and maintains a copy in the alien's A-file. The **FOJC** documents all information relied upon to determine age (the information referenced, data systems used, individuals or agencies consulted, statements, and conclusions) in accordance with local procedure using Form I-213, Record of Inadmissible/Deportable Alien; Form G-166C, Memorandum of Investigation; or memorandum to file.¹⁸

¹⁸ Age Determination Procedures for Custody Determination, Policy Number ERO 113014, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, December 11, 2015.



SECTION 3

3.1.3 Screening of a UAC

Although the TVPRA requires that CBP screen UAC from contiguous countries for trafficking indicators, as a matter of policy, CBP screens all UAC it encounters. A UAC who does not screen positive for trafficking, meets certain other criteria (ability to make independent decisions and no claim of fear), and is determined to be a citizen or national of Mexico or Canada, may be permitted to withdraw his/her application for admission.

3.1.3.1 Form CBP-93

CBP developed Form CBP-93-UAC Screening Addendum to assess the likelihood that a UAC has been a victim of trafficking or is at risk of being trafficked, fears return due to credible fear of persecution, and possesses the ability for independent decision-making. If the UAC claims to have been a victim, or appears to be at risk, removal proceedings will be initiated under INA § 240 and the UAC will be transferred to ORR custody. CBP will refer these cases to HSI for further investigation.

3.1.3.2 Form I-770 Notice of Rights and Request for Disposition

The apprehending DHS component must provide all encountered unaccompanied minors with Form I-770 Notice of Rights and Request for Disposition and an opportunity to express a fear of returning. The TVPRA stipulates that the USCIS Asylum Office has initial jurisdiction over all UAC who indicate a fear of return.¹⁹

NOTE

8 C.F.R. § 236.3(h) requires that a minor be given Form I-770 Notice of Rights and Request for Disposition. If the minor is younger than 14 years of age or unable to understand the notice, it must be read and explained to the minor in a language he or she understands.

¹⁹ The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5079 (December 23, 2008); 8 U.S.C. § 1158(b)(3)(C).



SECTION 3

3.14 Screening of ICE Apprehended UAC: Human Trafficking

With the continued influx of **UAC** into the United States, increasing the number of daily encounters and apprehensions, **ICE** officers must remain cognizant of the possible signs of human trafficking.

ICE officers must screen any newly encountered UAC, regardless of their citizenship or nationality, for potential trafficking indicators. This requirement includes all interior ICE apprehensions, including minors who may have been previously encountered by **CBP** (but not those UAC who were apprehended by CBP and are being transferred by **ERO** to **ORR** custody). ICE should also apply this screening for those individuals who are identified as minors while in ICE custody but may previously have been processed by CBP as an adult.

Processing officers must now screen every UAC for trafficking indicators using the questions below as a guide. While interviewing the UAC, ICE officers should engage with the UAC in a tone and manner appropriate for his or her age and level of development. Processing officers should engage with the local **FOJC** whenever a UAC is encountered to ensure proper processing actions are taken. Interview the UAC to obtain the following information:

- Is the UAC in possession of identification and travel documents? If not, who has control of the documents?
- Was the UAC coached on what to say to law enforcement and immigration officials?
- Was the UAC recruited for one purpose and forced to engage in some other job?
- Is the UAC paying off a smuggling fee?
- Was the UAC forced to perform sexual acts?
- Does the UAC have freedom of movement?
- Has the UAC or his or her family been threatened with harm if any members attempt to escape?
- Has the UAC been threatened with removal or law enforcement action?
- Has the UAC been harmed or deprived of food, water, sleep, medical care, or other life necessities?
- Can the UAC freely contact friends or family?
- Is the UAC having sex in return for money or payment in any kind?
- Is the UAC allowed to socialize or attend religious services?

Note: Interviews should be worded based on the UAC's age and ability to understand the question.

Should the UAC's answer(s) indicate potential victimization, the FOJC should attempt to ascertain if the activity occurred within the



SECTION 3

United States or abroad. If affirmative responses appear to indicate the UAC may be a victim of trafficking within the United States, the officer must notify the local **HSI** office.

The **FOJC** should update the “comments” section of **EARM** to include any pertinent trafficking-related information. When making the referral to **ORR**, the **FOJC** should provide detailed information regarding any signs of potential victimization, regardless of where this victimization occurred, within the **ORR Bed Space Placement Request Form**.

For further guidance on identifying human trafficking²⁰, visit the **ICE Victim Assistance Program** website.

3.1.5 HSI Operations Referrals

HSI special agents are sometimes required to arrest and detain **FAMU** pending an arraignment with the local Federal magistrate. In other instances, HSI may encounter **UAC** incidental to an ongoing investigative or enforcement action. In these instances, minors must be issued charging documents and transferred to **ORR** custody.

HSI Victim Assistant Specialists (VAS) may contact the **FOJC** with a specific case requiring action. The **FOJC** should advise the HSI

VAS of the necessary operational processes specific to minors and families. When a minor who has not been placed in removal proceedings must be transferred to **ORR**, it is at the discretion of the **ERO** field office to assist with the transport request. It is highly recommended that local management have an existing plan in place regarding how best to handle vulnerable cases.

When HSI special agents alert an **FOJC** that a minor has come into custody due to one of the above scenarios, the **FOJC** should seek answers to the following questions to help determine the best course of action:

- What status does the minor have?
- Is the minor unaccompanied?
- Was the minor apprehended with family? If so, was he or she with a parent or legal guardian?
- What is the criminal or delinquent history, if any?
- Is the minor a Saravia class member? (**see Section 2.9**)

To help answer these questions, the **FOJC** must review the I-213 to help determine if the **UAC** traveled to the United States, or was recently living with a family member. If the minor is determined to be accompanied, **ICE** should seek reunification with a parent or le-

²⁰ Broadcast: Screening of Unaccompanied Alien Children (UAC) Apprehended by ICE for Human Trafficking Indicators, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, February 4, 2016.



SECTION 3

gal guardian as soon as possible, consistent with DHS enforcement priorities. Refer to **Section 3.1.10 “Reunification Before ORR Transfer.”** Seek JFRMU assistance for referrals that do not fit the above scenarios.

3.1.6 Minors Who Surrender Themselves to Law Enforcement

On occasion, minors may surrender themselves to local law enforcement, requesting to be turned over to ERO. The FOJC should first determine whether or not the minor is a foreign national. If a foreign national, and the minor has no lawful status, he/she is subject to removal proceedings. If the FOJC determines the minor meets the definition of a UAC, initiate §240 proceedings by issuing the charging documents and refer/transfer the minor to ORR.

If the FOJC determines that the minor is accompanied and has criminal convictions, delinquency findings, or pending charges, the FOJC should seek JFRMU assistance. Accompanied minor's detention (ICE detention) must be reviewed by OPLA for legal sufficiency and approved by JFRMU. Refer to **Section 3.5.6 “Accompanied Minors Who Are Delinquent or Are Chargeable as Delinquent”** for further information.

In each of the above instances, both unaccompanied and accompanied minors must be screened for human trafficking. Refer to

Section 3.14 “Screening of ICE Apprehended UAC: Human Trafficking”.

3.1.7 Child Protective Services

In rare instances, local Child Protective Services (CPS) authorities may have custody of a minor whose parent or legal guardian is in ICE custody. In these instances, consult the ERO Resource Center on Detained Parents. You may also seek JFRMU's assistance. If a UAC is in CPS custody as a result of ORR sponsorship breakdown, the UAC has already been placed in removal proceedings, and he or she is not subject to a final removal order, the FOJC does not need to take any action as the UAC is not in imminent danger. If the UAC has a final order of removal, the FOJC would take appropriate action.

3.1.8 Operations of ERO Staging/Holding Areas

ERO established comprehensive standards for hold rooms during processing of minors, as directed in **ICE Policy Directive No. 11087I: “Operations of ERO Holding Facilities” (September 22, 2014)**. A staging/holding facility is a facility that contains hold rooms that are primarily used for the short-term confinement of individuals who have recently been detained, or are being transferred to or from a court, detention facility, another holding facility, or other agency. Individuals may not be placed in hold rooms for periods exceeding 12 hours.



SECTION 3

3.1.8.1 Monitoring Minors within Hold Rooms

Please refer to Section **3.1.8.3 “Separation of Minors by Age, Gender, and Criminality”** for considerations of least restrictive setting.

- Staff must maintain continuous, close, and direct visual monitoring of all minors. When the hold room is not in direct line of sight, visual checks must be performed at least every 15 minutes.
- If the hold room is not equipped with restroom facilities, the supervisor must position an officer within sight or hearing of each hold room so minors can be escorted to the restroom when requested. If there are no toilets in the hold room, staff should advise those being held that restrooms are available for use at any time and that they should notify any officer when they need to use the facilities.
- It is recommended that each field office purchase and maintain a supply of clothing for minors (e.g., shirts, sweatshirts, shoes, diapers). However, if the circumstances of the encounter prevent access to clothing or footwear and there is no readily available supply, arrangements must be made to purchase these items for the minor.
- Staff must maintain a separate detention log, or designated equivalent for every minor brought into **ERO** custody regardless of purpose (e.g., new arrivals, awaiting legal visitations, awaiting interviews, etc.).
- Staff assigned to monitoring minors in hold rooms must sign in before documenting the details of each “check-in” in the daily log or equivalent.
- All times must be documented when meals, drinks, snacks and when applicable, other items (e.g., blankets, sweaters, etc.) are provided or distributed.
- If a minor complains of harassment or any other safety issue with another minor, immediately separate the minors and notify the duty supervisor. Record all incidents into the log.

NOTE

Check out the Hold Room
Poster (b)(7)(E)

(b)(7)(E)

NOTE

Logged “check-ins” verify compliance with standard operating procedures, creating a legally defensible historical record of the juvenile while in ERO care and custody.



SECTION 3

3.1.8.2 Sexual Abuse and Assault Prevention and Intervention

Each ERO staging/holding area designated for the processing of UAC and/or FAMU must adhere to the zero-tolerance policy for sexual abuse or sexual assault. [ICE policy on SAAP](#)²¹ establishes an integrated and comprehensive system of preventing and responding to sexual abuse or assault. The SAAP policy directive was established to be consistent with the PREA.²² SAAP regulations are guidelines to prevent, detect, and respond to sexual abuse and assault of any individual, regardless of age, in ERO custody. The policy includes all phases of custody from initial encounter to transportation and final release from ERO custody.

UAC and/or parents with accompanied child(ren) should not be confined in the same hold room as other detainees. Additionally, all minors must be detained in the least restrictive setting appropriate to their age and special needs.

3.1.8.3 Separation of Minors by Age, Gender, and Criminality

ERO will not co-locate unaccompanied minors with unrelated adults in hold rooms. FAMU groups may be housed together under ICE supervision.

The layout of a holding area and the amount of traffic in the holding area will determine the least restrictive setting(s) in which to hold minors during processing. Every effort must be taken to ensure the safety and well-being of the UAC.

Using available spaces (benches, interview rooms, break rooms, etc.), group the minors as follows:

- Ensure separation of those unrelated minors age 14 years and older from younger minors; and, whenever possible, separate the minors 10 to 13 years old from those age 9 and younger;
- Separate males from females, and assign same-gender monitoring staff whenever feasible;
- Whenever possible, keep siblings together (same and opposite-sex siblings) while in ERO custody. This is especially important when an older sibling may be the younger sibling's caretaker (note "caretaker" does not mean legal guard-

²¹ ICE Policy Directive No. 110621: Sexual Abuse and Assault Prevention and Intervention (SAAP) (May 22, 2014).

²² Prison Rape Elimination Act of 2003, Pub. L. No 108-79, 117 Stat. 972 (2003).



SECTION 3

ian). This will also better ensure that siblings are transported together;

- If an arriving minor appears at higher risk of sexual or other form of abuse, separate the at-risk minor from potential aggressor(s). For example, minors with developmental delays or those lacking mental or physical maturity commensurate with their age should be separated from potential aggressors. In these instances, officers and staff should consider whether the minor with special needs requires additional supervision/observation beyond the required 15-minute checks discussed below;
- **UAC** who are accompanied by their own child(ren) should be housed together. They should not be housed with other **UAC** or unrelated adults. In some instances, it may be appropriate to house the minor and his/her child with other **FAMU**, under **ICE** supervision;
- Separate delinquent/criminal minors, or those with suspected gang affiliation from other minors; and
- For **UAC** referred to **ORR**, notify **ORR** in all instances when a referred **UAC** has a history of and/or has been convicted or found delinquent of a crime related to sexual abuse or any other serious offense(s). **ORR** must be notified of all factors that could affect **ORR**'s placement decision.

3.1.84 Minors with Special Needs

If a minor with a disability arrives with an adult caregiver, staff may allow the adult to care for the minor until his or her identity is verified. These instances may require additional supervision. **JFRMU**'s transportation contractor can assist in caring for the minor with special needs until placement is received. Often, **ORR** may be able to provide additional licensed staff to assist with minors who have special needs. For assistance and/or additional recommendations in cases such as these, contact **JFRMU**.



SECTION 3

3.1.8.5 Temporary Housing (Custody Determination or Placement Pending after 12 Hours)

Processing and issuing **UAC** charging documents takes priority over processing all adult detainees. Placing tender-age UAC into appropriate housing is **ICE's** highest priority. If placement is not possible before this 12-hour deadline because of limited resources or operational limitations, **ERO** must move UAC to a hotel or a **JFRMU**-approved under 72 hour juvenile facility.

Field offices are encouraged to have standing contractual agreements with local hotels. UAC placed in hotels may be supervised by ICE officers and/or approved ICE contractors. JFRMU's transportation contractor can also assist in temporary housing of UAC.

- **Hotel rooms:** When using a hotel temporarily to house one or more UAC pending placement, have the supervising staff bring sufficient clothing and toiletries for the duration of their stay.
- **Under 72 hour facilities:** JFRMU maintains a list of approved facilities that may be used to house UAC.

3.1.8.6 Searches

Only when there is a reasonable suspicion that the UAC is concealing contraband should ERO officers conduct a search. Use the least intrusive search method practical—such as clothed pat-down searches, searches of outer garments and contents of pockets, intake questioning, x-rays and metal detectors, etc.—to detect contraband. When operationally feasible, a same-gender officer shall conduct the search. At least one witness will observe if an opposite-gender officer search is necessary.



UAC can **NEVER** be placed into any adult detention facility.



SECTION 3

Do not subject anyone 14 years of age or younger to a pat-down search without explicit authorization from a supervisor. If a supervisor authorizes the pat-down, the approving supervisor's name, date, and time of authorization will be documented in the daily intake log.²³

3.1.9 Meals and Snacks During Transport

ERO officers must inquire and identify any special dietary needs for those requiring transport. To ensure that suitable food is available during the trip, the local food service provider must be notified of any special dietary needs prior to departure. The originating field office must provide meals for minors during transport whenever the time in transit will exceed four hours. The provided meals must be nutritional and of sufficient calories for the age/size of the minor. In accordance with **ERO** policies, and regardless of the trip's duration or the time of day, snacks and drinks must remain available the entire time.

Additional stipulations for meal/snack provisions are as follows:

- A constant supply of drinking water, along with cups or bottles suitable for the minor's ease of use, must always be available;
- Consider the timing of the most recent meal when deciding when to serve the next meal;
- Observe safe food-handling procedures, including proper temperatures and refrigeration, personal hygiene, and general sanitation (cleaning and sterilization);
- If meals have not been provided because of an emergency or other **ICE** management-approved decision, purchase meals from a commercial source.



Follow local procedures—including use of a government purchase card or other reimbursement procedures—when paying for meals.

²³ [Operations of ERO Holding Facilities, Policy 110871, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, September 22, 2014.](#)



SECTION 3

3.1.10 Reunification Before ORR Transfer

If **ERO** encounters a minor who identifies a parent or legal guardian who, within 24–48 hours, can provide care and physical custody, ERO may release the minor to that parent or legal guardian if the **FOJC** can verify the relationship through supporting documentation. The parent/legal guardian must provide at least one document from any of the following categories:

A. Identity document:

- Passport;
- Consular Identification card;
- Notice to Appear; or
- Government-issued document.

B. Legal document establishing the relationship:

- Birth Certificates (sponsor's and minor's); or
- Court order granting custodial rights for minors.

Note: a notarized letter is unacceptable.

C. Proof of employment:

- Letter from employer on letterhead stationery.

D. Affidavit of support (I-134) establishing financial support from head of household.

E. Proof of residence:

- Lease/rental agreement; or
- Utility bill.

If there are doubts about any of the above-listed documents and a supervisor approves further investigation, the **FOJC** should ask the local consulate for help with verification/authentication.

ERO must transfer custody to **ORR** within 72 hours of determining the minor is unaccompanied (which generally means within 72 hours of apprehension) if a parent/legal guardian cannot meet the reunification requirements.

A parent/legal guardian must be able to physically reunite with the minor within 24–48 hours. If the parent/legal guardian is unable to reunite with the minor, the **FOJC** must make contingency plans to facilitate timely transfer to **ORR**. ERO must comply with the **TVPRA**'s requirement to transfer unaccompanied minors from ERO custody within 72 hours of determining that the minor is unaccompanied.²⁴

²⁴ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § E, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.



SECTION 3

3.1.11 Request for ORR Placement

Once a **UAC** is identified, a request for **ORR** placement should be submitted via ORR's **UAC Portal**. Generally, it is the apprehending agency's responsibility to refer the minor to ORR via the Portal. **CBP** has developed an electronic process where information entered in its system of record (E3) is automatically transferred into the Portal. Because this process is automatic, no interaction is required on the part of **ERO**. In limited cases, ERO may need to assist non-DHS Federal agencies in completing the referral process. **For UAC apprehended by CBP, ICE is not to take physical custody of the UAC until ORR has designated bed space for that minor.**

All **FOJCs** and **FOJC Supervisors** should have access to the **UAC Portal**. To request access the Portal, please contact **JFRMU**.

If the **UAC Portal** is not available, a placement request can be submitted by completing the **UAC Initial Placement Referral Form** and submitting to the ORR Intakes mailbox. This form is available on the JFRMU Intranet site: (b)(7)(E)

Complete the **UAC Initial Placement Referral Form** in its entirety, including as much detail as possible. Review and verify all information to ensure accuracy. Be sure to include any available contact information for parents, legal guardians, or adult relatives, as this information can assist in ORR's reunification process. Also include information related to medical conditions and delinquent/criminal history, to allow ORR to place each UAC in a facility that is equipped to handle that UAC's specific needs.

A completed **UAC Initial Placement Referral Form**, along with any supporting documentation,



For UAC apprehended by CBP, ICE is not to take physical custody of the UAC until ORR has designated bed space for that juvenile.



SECTION 3

should be scanned and emailed to (b)(7)(E)@acf.hhs.gov (with read receipt), or faxed to (b)(7)(E). If there are concerns regarding the placement request, please call **ORR** Intakes directly at (b)(7)(E). **ORR** Intake staff handle placements seven days per week between 9:00 am and 9:00 pm EST.

committed, sentences served, as well as use of weapons or suspected gang affiliation (including gang-related tattoos). Provide **ORR** with any information regarding behavioral problems or disciplinary action prior to transfer to **ICE** custody. Provide this information as promptly as possible.

3.1.11.1 Criminality Information and Documents

ORR may request additional information that cannot be found in the National Crime Information Center (**NCIC**) criminal history or in the **UAC**'s Form I-213 within the A-file. If the **UAC** has a criminal record, **ORR** may request copies of court documents, police reports, indictments, and documentation on gang affiliations and/or ties to cartels. **DHS** officers cannot provide copies of these reports without the consent of the originating agency (Third Agency Rule). Officers should consult with their law enforcement agency (LEA) partners and use their best judgment regarding documents obtained from other jurisdictions. The **FOJC** can provide the name and contact number for the probation officer for **ORR** to contact them directly. The **UAC Initial Placement Referral Form** includes a field to document the contact information for the probation officer.

If a **UAC** has a criminal or delinquent record or is coming from a State or local jail, record the I-213 with information regarding crimes

²⁵ James M. Chaparro, *Sharing Information with the Department of Health and Human Services Office of Refugee Resettlement, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations*, November 30, 2010.



SECTION 3

3.111.2 Medical Documents

ORR may request copies of medical documents, particularly in cases of contagious disease, pregnancy, or physical disability. These documents should be submitted to ORR along with the [UAC Initial Placement Referral Form](#). Often the medical documentation (or medical transfer summary) is not available prior to the UAC's transfer to ICE custody; if not, please indicate such on the [UAC Initial Placement Referral Form](#). If DHS officers learn that the UAC has a medical condition after the placement request is submitted, provide updates to ORR as needed.

3.112 ERO Required Transportation Notifications

FOJCs should use JFRMU's transportation contractor to transport UAC to shelters and are required to notify the following when coordinating and conducting transport to staff-secured or secured shelters:

- Notify the component staging the UAC of the intended time of travel;
- Notify the FOJC of the designated ORR shelter location AOR that the shelter is receiving a UAC;
- Notify the designated ORR shelter of the UAC's estimated time of arrival at the shelter.

3.113 Transportation Request

CBP will submit the request for placement to ORR Intake. ORR Intake will inform CBP and ERO via email that the UAC is ready to be transported. JFRMU's transportation contractor will coordinate directly with CBP to transport the minor to the shelter. ERO officers are instructed to only accept custody of a UAC for purposes of transportation to ORR designated shelters for placement. ERO will accept custody of the UAC from CBP **only after** the following conditions have been satisfied:

- UAC has been processed; charging documents have been issued and served; ORR shelter placement and bed space is confirmed.
- NTA has been reviewed for legal sufficiency, including confirmation that the certificate of service has been signed by the appropriate party.
 - The certificate of service can only be signed by UAC 14 years of age and older, and must be left blank for UAC 13 years of age and younger.
 - For UAC younger than 14 years old, the NTA must be personally served on the "conservator." In most cases, the conservator will be the person in charge of the ORR facility in which the UAC is housed (or an ORR case manager). The FOJC in the AOR where the ORR facility is located is responsible for visiting the ORR facility to per-



SECTION 3

sonally serve the conservator, ensuring that the conservator legibly signs the NTA and prints his or her name and title beneath the signature. This requirement will ensure that ICE can demonstrate proper service to the immigration court.

FOJCs should use JFRMU's transportation contractor to coordinate the transportation of UAC to the placement location. Some offices have local agreements with CBP and do not take custody of a UAC until time of transport. If the field office is transporting the minor, it is still responsible to provide all notifications (e.g., placement notification, itineraries for flights, etc.) to the receiving AOR. These notifications ensure that transporting officers are aware of the travel arrangements and help to avoid travel delays or cancellations.

3.114 Transport Documents

When traveling by bus or van, ERO officers must complete Form G-391, Official Detail ("Trip Ticket") or equivalent, recording the names of the escorting ERO officers or contract transportation specialists, type of transport vehicle, and mileage at the start and end of the trip. In addition to recording the time in custody for every minor on the manifest (I-216, Record of Persons and Property Transferred) in the ENFORCE Alien Booking Module (EABM), the

transporting officer or contract transportation specialist must send the receiving FOJC a copy of the I-216, along with the estimated time of arrival.²⁶

3.115 Escort Requirements

The following requirements must be met during the transportation of UAC:

- Although the preferred practice is a minimum of two escorts for one UAC, if necessary and with supervisory approval, one escort of the same gender can escort one UAC;
- Two escorts may transport up to five UAC;
- Female UAC must be escorted by at least one female escort;
- Each additional group of five minors requires one additional escort;
- Instances in which both male and female minors are being transported require an additional escort of each gender;²⁷
- Additional escorts may be necessary when very young children are being transported as part of a group (e.g., an infant will require one escort). Toddlers and children in diapers will require additional assistance from escort staff—adjust escort to UAC ratios accordingly.
- Separate unrelated UAC by gender and age.

²⁶ John P. Torres: "Update to the Detention and Deportation Officers Field Manual: Appendix 16-4, Part 2; Enforcement Standard Pertaining to the Escorting of Aliens", January 31, 2008

²⁷ John P. Torres: "Update to the Detention and Deportation Officers Field Manual: Appendix 16-4, Part 2; Enforcement Standard Pertaining to the Escorting of Aliens", January 31, 2008



SECTION 3

- Place a divider or empty seats between adults and juveniles and between males and females.

3.116 Requirements for Transfer of Custody to ORR

FOJCs must ensure that a custody-transfer packet is prepared and completed prior to the UAC getting transported and that the packet is given to the ORR shelter staff who are receiving the UAC.

The custody-transfer packet includes the following:

- I-862, Notice to Appear (or charging document);
- I-770, Notice of Rights and Request for Disposition;
- I-200, Warrant of Arrest;
- I-286, Notice of Custody Determination;
- Medical Screening Form;
- Medical paperwork (e.g., hospital records), if any;
- List of medications, if any;
- List of free legal service providers, if applicable; and
- Orantes advisals and notifications, if applicable.

Although it is standard operating procedure for ERO to deliver custody-transfer packets in the manner prescribed in this section, no ORR shelter can refuse to accept UAC because of limited or missing DHS-issued paperwork.²⁸

²⁸ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § H, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.

3.117 Medical Screening and Medications

UAC should travel with documentation of a recent medical screening. If a UAC comes into ERO custody without a medical screening, contact the IHSC Field Medical Coordinator (FMC) or Health Services Administrator (HSA) to coordinate.

- When possible, if a UAC is encountered by ERO (or another agency) and is in possession of an unfilled prescription, consult with IHSC or a medical provider. ERO should contact IHSC to administer medication and/or monitor the UAC taking the medication, as directed by the prescribing medical authority.
- Prior to transporting any UAC from a holding facility, attach a list of all medications or prescriptions to the I-216 manifest. In addition, note any medications in the manifest comments section in the ENFORCE Alien Detention Module (EADM).

3.118 Money, Valuables, and Other Personal Property

At the beginning of, during, and upon completion of each transport, ERO officers and contract transportation specialists are required to verify that all items listed on the manifest are accounted for. If a UAC claims missing funds, valuables, identity documents, or personal property, that UAC should remain in the staging/holding area



SECTION 3

while completing the required paperwork (SF-95 and I-387, or equivalent) to note what is missing. The processing officer and receiving **FOJC** should ensure that the completed forms are placed in the A-file. **UAC** should not have access to personal property while in transit from a holding facility to another location. However, unless there are safety concerns, the following items may remain on person:

- Contacts phone number(s);
- Eyeglasses and/or contact lenses;
- Receipts for money and property (forms G-589 and I-77);
- Copies of charging documents and identity documents (e.g., I-200, I-286, I-862, I-770, list of legal services, birth certificates, and government IDs).

3.1.19 Driving Hours

With full consideration for escort safety and security, all escorts will make a reasonable, but limited, number of rest stops, taking into account the ages of any minors being transported. Younger children may require more frequent restroom use, and these needs should be anticipated and accommodated. Before allowing those being transported to leave the vehicle during a rest stop, escorts will secure the area. After disembarking a transport vehicle, the escorts will keep all minors under constant observation to prevent external contact(s) or contraband smuggling. If one or more individual remains inside or near the vehicle during a rest stop, at least one escort must stay with the vehicle.

Prior to commencing a transport, escorts must be cognizant of travel times and ensure adherence to **Section 3.1.9 “Meals and Snacks During Transport”** regarding the availability and timing of meals and snacks during transport.



Check out the **ORR** Transfer
Packet Checklist Job Aid (b)(7)(E)



Although custody of **UAC** is transferred to **ORR**, case management remains with **ERO**. Original documents may be needed to secure travel documents if **UAC** is ordered to be removed. A copy can be provided to **ORR** and the individual at the time of transfer.



SECTION 3

- **UAC** will not be transported by bus if the trip would normally exceed six hours, except under exigent circumstances. If the bus route is likely to exceed six hours, transportation by auto or van is required with frequent breaks as indicated above. When exigent circumstances occur and transportation by bus will exceed six hours, refer all requests for authorization to **JFRMU**. When transporting minors, follow all State laws and regulations regarding child restraints and car seats.
- When **ERO** officers are transporting individuals of the opposite gender, transport staff is required to call in their time of departure and odometer reading to the originating field office's transport supervisor. The transporting officers will provide the same trip details upon arrival at their destination. All trip logs including method of travel, dates, times, locations, and designated supervisory official are to be maintained in accordance with **ICE** record retention policies.

3.1.20 Use of Restraints

ERO officers will not transport anyone without considering the person's risk to ICE staff, the public, himself or herself, and the likelihood of escape. The use of restraints should be on a strict case-by-case basis and not as a general practice. As a rule, do not handcuff minors during transport unless there is evidence of a perceived threat of violent behavior, a history of criminal activity, or other reasons to believe the alien is an escape risk. Any minor deemed not to pose a threat of harm or escape by an ERO officer will not be restrained.²⁹

NOTE

Check out the Rules of UAC
Ground Transportation Job
Aid (b)(7)(E)
(b)(7)(E)

²⁹ Use of Restraints, Policy ERO 111551, Department of Homeland Security, Immigration and Customs Enforcement, November 19, 2012.



SECTION 3

If it is necessary to restrain a minor, always consider size, age, gender, and cognitive ability when considering the type of approved restraints to apply. Minors under 12 years of age will never be placed in full restraints. As a rule, full restraints should never be used on minors over the age of 12 unless they are actively presenting combative behavior and there is articulable evidence that suggests violent behavior is imminent, or very likely to occur, or the minor has a significant criminal history and/or a history of escape such that safety and security would be compromised. The use of restraints on a minor must be approved by a supervisor in all cases. The use of full restraints on a minor must be approved at the AFOD or Unit Chief level. Use of restraints on any minor must be fully documented with an after-action report. Minors who are pregnant will never be placed in restraints, unless deemed to pose a threat of harm or escape.

3.1.20.1 Use of Restraints while Transferring Minors on ICE Air Flights

Except in exigent circumstances, minors being transported by ICE Air Operations (IAO) flights (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

If a Flight Officer in Charge (FOIC) determines it necessary to restrain an entire group of minors on an IAO flight, that decision must be approved at/or above the Unit Chief level and an After-Action Report must be completed. The same process must be followed when any minor under the age of 12 is restrained in any manner.³⁰

3.1.21 Contractor-Led Transport

JFRMU continues to operate a UAC and FAMU transportation program to support ERO field offices in safely transporting these populations to ORR shelters or ICE family residential centers within the interior of the United States. JFRMU's transportation contractor coordinates directly with CBP and HHS for operational arrangements and estimated time of arrival notifications. Operations are currently headquartered in McAllen, Texas, with sub-offices in San Antonio and El Paso, Texas; and Phoenix, Arizona.

Once travel arrangements are finalized, JFRMU's transportation contractor will ask the apprehending agency to meet his or her staff at the airport for a commercial flight. ORR_DUCs will forward all UAC placement information to the appropriate FOJC.

³⁰ Broadcast: Interim Guidance Regarding the Use of Restraints while Transferring Minors on ICE Air Flights.



SECTION 3

To request transportation assistance, please email JFRMU's transportation contractor's Command Center (b)(7)(E)@mvminc.com, with a copy to the JFRMU Domestic Transport Manager.

3.1.22 Transport to ICE Air Operations Flight Line

JFRMU's transportation contractor is available to assist with the transportation of non-criminal FAMU from all ERO Field Offices (to include sub-offices) and any non-criminal UAC from ORR shelters or ERO office to any IAO flight line location. The process for requesting transport of UAC or FAMU to IAO repatriation flights is as follows:

Field Offices are responsible for requesting seat availability from IAO consistent with current IAO guidelines. Once Field Offices receive approval from IAO they should request transport by emailing the transportation contractor's Command Center (b)(7)(E)

(b)(7)(E)@mvminc) and copying the JFRMU Domestic Transport Manager.

The transportation contractor will schedule transfer of custody of the UAC or FAMU for the day before the repatriation flight. Contractor Transportation Specialists (TS) will transfer custody to the receiving AOR at the flight line and will remain at the flight line until the aircraft has departed. In the event of a mechanical delay or cancellation that results in the UAC or FAMU not departing, the

JFRMU Domestic Transport Manager will coordinate a plan of action with the transferring and/or receiving AOR. The transportation contractor will email the transferring Field Office POC after the flight has departed with the UAC or FAMU onboard.

The transportation contractor will book the UAC or FAMU into the contractor's DETLOC during transportation and then back into the Field Office DETLOC when the UAC or FAMU has departed, allowing the case manager to close the case in EARM.

3.1.23 Emergency Situations

ICE officers should refer to procedures established in PBNDS 2011 and the Family Residential Standards regarding escapes/attempted escapes, hostage-taking, illness, death, fire, riots, traffic accidents, special needs, and other medical issues (e.g., emergency plans, terminal illness, advance directives, and death).

3.2 Case Management

Although UAC are placed in the care and custody of ORR, ERO retains responsibility for immigration case management. Proper case management includes such activities as monitoring the status of immigration proceedings and documenting case updates in EARM and timely removal of the UAC if ordered removed at the conclusion of his/her immigration proceedings. Once a UAC is transferred to ORR custody, his or her case is to be maintained on a separate detained juvenile docket until such time as ORR releases him or



SECTION 3

her to a sponsor. At that time, the case may be transferred to a non-detained docket. The case should be managed on a separate juvenile non-detained docket.

3.2.1 Book-In Procedures

FOJCs, or assigned officers, must immediately book each UAC into the EADM upon the UAC's transfer into ERO custody (including the custody of an ICE transportation contractor). JFRMU's transportation contractor will book in the UAC transported to ORR shelters. If operational logistics prevent immediate EADM book-in, no more than four hours may elapse without recording the time in ERO custody. All UAC book-ins must record the actual day and time in custody to account for a proper detention record. FOJCs, or assigned officers, must also ensure that the transfer to Docket Control Office (DCO) is changed to the location where the UAC is being transferred and that the "book-out comments" indicate the exact location of the transfer. Transferring FOJCs must notify the receiving FOJC via email of the transfer, to avoid "hanging transfers" in the EADM system.³¹

3.2.2 Book-Out Procedures

Upon receiving notification from ORR that a UAC will be released to a sponsor:

- Verify the validity of the address (b)(7)(C) by using the USPS webpage at: (b)(7)(E) (b)(7)(E) If the address is not valid, have ORR verify information provided on the Final Discharge Notice and submit a corrected address.
- In EARM, under the "Supporting Information" tab, select "Addresses," then review the address listing. If the appropriate address isn't listed, select "Add Address Type," then select "In care of" from the drop-down tab, and enter the start date as the current date, sponsor's name, and complete address. Click "Submit."
- After the record has been updated, verify that all other biographical information is correct, including the individual's "Person Details"—name and date of birth. Update case comments to reflect current case information in EARM. Then proceed to EADM to book subject out on an "Order of Recognizance" (OREC).
- Select EADM, "book out to OREC" and choose the previously entered address from the drop-down box as the "released-to" field and submit.³²

³¹ Broadcast: Unaccompanied Alien Children (UAC) Book-ins, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, July 23, 2015.

³² Broadcast: UAC Shelter Book Out Procedures, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, March 21, 2015.



SECTION 3

A-files need to be routed via UPS next day service to the **FOJC** located in the **AOR** of the **UAC's ORR** designation. **NTAs** for **UACs** need to follow the same procedures as any other **ICE** detained docket. The immigration proceedings for **UACs** in **ORR** care/custody need to be managed in the same manner as anyone detained in **ICE** custody. The **FOJCs** need to ensure that legally sufficient charging documents are routed to the Office of Chief Counsel (**OCC**) and the **EOIR** in a timely manner. Also, the **FOJCs** should properly document Case Actions and Decisions in **EARM**.

When a **UAC** is transferred or released, the A-file must be sent via next day air to the appropriate **AOR** of the minor's release or where the minor currently resides.

UAC A-files will be maintained and transferred in accordance with the most recent **ERO**-approved **UAC** A-file Process.

3.24 Reviewing Charging Documents

UAC not allowed to withdraw an application for admission into the United States will be placed in § 240 proceedings. (For limited exceptions, refer to the **TVPPRA**.) When accepting custody of a **UAC** from an outside agency, verify A-file(s) for issued and served charging documents. Form I-213 should be contained in the A-file

for proper processing, and should include:

- Alienage and removability (including notation of documents, if any, provided by **UAC** to establish alienage, i.e., birth certificate, passport):
 - Country of birth;
 - Country of citizenship;
 - Date of entry;
 - Port of entry; and
 - Manner of entry.
- Signature of issuing officer;
- Designation as **UAC**;
- Notation of other family members and their A-numbers (i.e., **UAC** traveling with their own child(ren), **UAC** siblings);
- Location of immediate family with contact information (if possible);
- Location of intended parties or destination in the United States;
- Length of time in transit to the United States;
- Financial support or monies on person;
- Medical issues (e.g., medications, pregnancy, medically issued items [walker, shoes, prescribed glasses]);
- Mental health (e.g., medications, behavioral, monitoring requirements);
- Notation of special needs (e.g., dialect, language barrier, age, vulnerabilities);



SECTION 3

- Notation if family contact was made and duration of the call;
- Notation if consulate/attorney contact was made and duration of the call;
 - Consulate contact required for mandatory notification countries; for all other cases, consulate notification is available upon request and local agreement.

While interviewing a **UAC** received from another Federal agency or **DHS** component, and encountering new information that is necessary to include in Form I-213, add to the bottom of the current Form I-213 as an addendum/addition in order to maintain the integrity of the initial encounter record. Do not remove or change the other component's narrative.

The **I-862/NTA** should also be contained in the A-file for proper processing. Verify the following:

- Name and alias(es) are included on NTA;
- A-number is accurate and comports with number listed elsewhere in/on A-file;
- The UAC's address corresponds with the placement location:
 - File an **I-830** (Notice to **EOIR**: Alien Address) to correct the address if this is the only error;
 - If local EOIR does not accept an I-830 with initial filing, an

NTA may have to be superseded by **ERO** to place correct address;

- Certificate of Service is signed by UAC (older than 14 years of age):
 - If younger than 14 years, the NTA needs to be served to the conservator (**ORR** Program Director or designee);
 - It may be necessary to serve the NTA on the conservator for UAC older than 14 years of age if his or her cognitive ability is insufficient, or if the minor is developmentally delayed;
- Allegations should concur with the local **OPLA** legal sufficiency.

The A-file also requires the following additional documentation:

- I-770 Notice of Rights and Request for Disposition (this form is in lieu of an I-826 Notice of Rights issued to adults);
- I-200 Warrant of Arrest;
- I-286 Notification to Alien of Custody/Conditions of Release;
- I-217 Information for Travel Document (other than Mexican (**OTM**) cases);
- List of Legal Service Providers;
- Form **CBP-93**—UAC Screening Addendum, if applicable;
- Orantes advisals and notifications, if applicable.

If the UAC is apprehended at the **POE**:



SECTION 3

- Depending on the **ERO** field office location and local agreements with CBP/**OFO**, processes with **UAC** may vary. Local arrangements may include UAC being transported directly to **ORR** placement from **CBP**, therefore A-file verification may be challenging.

The **NTA** packet should have two copies with the original signed documents in the A-file. The A-file should be created by **USCIS** (Records Dept.), if available, in the local field office. Ensure the following steps are taken:

- Assign the UAC to the appropriate detained juvenile docket;
- Ensure each UAC is booked into the correct “detention” location;
- Ensure your **DCO** has a “DET LOC” (drop down for all your **ORR** facilities);
- Update all Actions and Decisions, as well as Case Category;
 - Charging documents forwarded to **OPLA** or **EOIR**;
 - Filed Motion to Change of Venues (COV) (I-830 if necessary);
 - A-file forwarded to Trial Attorney;
- Final Orders: Voluntary Departure/Removal/Proceedings Terminated;
- Call-Ups;
 - Status of case: Hearing Pending/COV Pending/Pending Travel Documents (TD);

- All relevant information for anyone reviewing the case;
- Comments;
 - Identify juvenile at an adult detention facility;
 - Age-out/adult verification from **ORR**;
 - Attorney/family contacted **ERO**;
 - Release to sponsor—name and address;
 - Escape/AWOL details: provide Police Department (PD) contact info;
 - Any additional information that will aid future review;
- Ensure proper Book-in and Book-out;
 - “Release/Transfer”;
 - “Final Order”;
 - “Final Orders: VD/Removal/Proceedings Terminated.”

Note: Once the initial **AOR** no longer needs an A-file, the A-file should be transferred to the receiving office, other **DCO**, Records, **NRC**, or **USCIS**. Follow the local best practices.



SECTION 3

3.2.5 Docket Management

It is important that **FOJCs** conduct proper docket management, as seen in the Table 1 below.

TABLE 1. RESPONSIBILITIES OF PROPER DOCKET MANAGEMENT

COORDINATE	VERIFY	RESPOND	COMPLETE
• With FOJCs at receiving AORs when receiving and/or sending A-files. • With ORR facilities during custody transfers of UAC. • ORR shelter site visits with ORR program managers, as needed. • With consulates for travel documents and repatriation efforts.	• All UAC in ORR shelters in the AOR are properly booked-in and out of EADM. • All required documents and case actions are complete in A-file.	• To inquiries from the consulates in regard to UAC. • To parents', legal guardians', or legal representatives' inquiries regarding UAC. • To requests from case workers, program managers, or ORR staff.	• And create case call-ups for all required actions (e.g., hearing updates, travel documents, age outs). • Forwarding of all A-files for transferred UAC to the receiving FOJC immediately by express mail. • Maintenance of case management of juveniles in EARM and if necessary, transfer the case to a detained or non-detained docket. • Custody redetermination and case review when necessary.



SECTION 3

3.3 Age-Outs

3.3.1 Overview of VAWA 2013

When unaccompanied children are still in the custody of **ORR** when they turn 18, federal law provides that custody is transferred to **ICE**, which must make a custody determination as to where they will be placed. Such **UAC** are referred to as “Age Outs,” and ICE’s decision as to where they will be placed is referred to as a “custody” or “placement” determination. A 2013 provision in the **Violence Against Women Act** (sometimes referred to as “VAWA 2013” or 8 U.S.C. § 1232(c)(2)(B), the section of the U.S. Code in which this statute is codified) governs how this decision must be made.

It imposes two requirements and obligations on ICE:

- First, ICE “shall consider placement in the least restrictive setting available after taking into account the alien’s danger to self, danger to the community, and risk of flight.”
- Second, such alien “shall be eligible to participate in alternative to detention programs, utilizing a continuum of alternatives based on the alien’s need for supervision, which may include placement of the alien with an individual or organizational sponsor, or in a supervised group home.”

In order to satisfy the first requirement, ICE must take affirmative steps to identify the placements available to the Age-Out.

- A Field Office Juvenile Coordinator (FOJC) cannot determine which placement is the “least restrictive setting available” unless he or she first identifies those alternatives that are available.
- Such alternatives shall include “a continuum of alternatives,” including release on the Age-Out’s own recognizance (OREC) or an order of supervision (OSUP), release to a family member, friend or other individual sponsor, release to a shelter, group home or other organizational sponsor, and/or release pursuant to ICE’s Alternative to Detention (ATD) program or on an ICE bond.
 - Many, if not most, of these alternatives will usually be available to the Age-Out.
 - If an alternative is available, it must be considered.

The **FOJC** must then determine which of the alternatives available is the least restrictive after taking into account the Age-Out’s danger to self, danger to the community, and risk of flight, and consider placement in that least restrictive setting.

- For example, if the Age-Out is not a danger to themselves or the community or a flight risk, **OREC** or **OSUP** will likely be the least restrictive placement available.



SECTION 3

- In most cases, concern that an Age-Out is a flight risk can be addressed by release to an individual or organizational sponsor. In those cases where release to a sponsor alone will not address the risk of flight, release pursuant to ICE's **ATD** program or an ICE bond may be the least restrictive setting available.
- If there is evidence that the Age-Out is a danger to themselves or the community, the least restrictive setting available will depend on the nature and/or degree of that danger.

If the Age-Out is a danger to the community (for example, has a criminal history involving crimes against persons or exhibited serious behavioral issues in **ORR** custody), or is a flight risk that cannot be addressed by release on **ATD** or bond (for example, has made repeated escape attempts or has multiple removals and re-entries), detention **may** be the least restrictive alternative available.

3.3.1.1 *Top 10 Dos and Don'ts*

Pursuant to the Court's decision, ICE has identified a number of things FOJCs should and should not do in making Age-Out placement determinations:

1. FOJCs should **not** make custody decisions for Age-Outs in the same way that custody decisions are made for adults. This means that FOJCs should not apply the "totality of the circumstances" standard when making custody decisions for Age-Outs. Instead, FOJCs should make Age-Out placement determinations based on 8 U.S.C. § 1232(c)(2)(B), which requires that the FOJC identify available sponsors and other alternatives to detention, and determine—and consider placement in—the alternative that is least restrictive after taking into account the Age-Out's danger to the community, danger to self, and flight risk.
2. FOJCs should **not** first determine whether an Age-Out should be detained and only then identify and consider the alternatives to detention that may be available. Rather, FOJCs must identify and consider the alternatives to detention that are available to the Age-Out **before** deciding where to place the Age-Out, including whether to release or to detain the Age-Out.
3. FOJCs shall **not** run the Risk Classification Assessment ("RCA") tool as part of age-out custody determinations. The **RCA** tool was modified in August 2017 so it never recommends release. Therefore, the RCA can only be utilized and considered for the limited purpose of determining the level of detention (e.g., low, medium, high) when a custody decision has already been made and approved, and that determination is to detain the Age-Out.



SECTION 3

4. FOJCs should **not** assume that an Age-Out is a flight risk solely because the Age-Out does not have a permanent address in the United States or does not have ties to the community. These are factors that are present for nearly all Age-Outs as recent arrivals to the United States, and they are not sufficient reasons (either alone or in combination with one another) for detaining an Age-Out.
5. FOJCs may **not** justify a decision to detain an Age-Out based solely on a finding that the Age-Out has no “viable” sponsor. Under the statute, the issue is whether an individual or organizational sponsor is available, and where a sponsor is not available, officers must still consider releasing the Age-Out on his or her own recognizance, pursuant to ICE’s Alternatives to Detention program, and/or on an ICE bond.
6. FOJCs may **not** conclude that an Age-Out has no available sponsor simply because ORR has not provided the name and/or contact information of an individual or organizational sponsor that is willing to accept the Age-Out. Instead, FOJCs must take affirmative steps to identify and consider available individual and organizational sponsors and shelters for the Age-Out.
7. FOJCs may **not** disqualify a sponsor simply because ORR did not approve them. ORR’s release requirements are different than ICE’s, and ORR may not always have time to complete the approval process before a UAC turns eighteen. Rather, FOJCs must independently assess the availability and suitability of all potential individual and organizational sponsors.
8. VAWA 2013 does not prohibit the release of an Age-Out to an undocumented sponsor. FOJCs must consider any potential sponsor identified, including those without lawful status.
9. FOJCs should **not** conclude that an Age-Out is a danger to themselves because they may not be able to support themselves or become homeless. Rather, danger to self refers to the risk the Age-Out will harm themselves and is evidenced by, for example, mental health issues, suicide attempts or ideation, or a history of self-harm. Further, such evidence does not require detention, and alternatives to detention must still be considered.
10. An FOJC’s responsibilities with regard to Age-Outs are **not** limited to the day of the Age-Out’s eighteenth birthday. FOJCs should begin working on an Age-Out’s case at least two weeks in advance where possible, and if for some reason the VAWA 2013 placement identifications, considerations, and custody determination have not been completed, FOJCs must continue working on the case after the Age-Out turns eighteen.



SECTION 3

3.3.2 How to Make a Custody Determination under VAWA 2013

Under **VAWA** 2013 and the Court's decision, officers must take the following steps in making Age-Out determinations:

1. Identify, collect, and evaluate any available evidence of the statutory risk factors (danger to self, danger to the community, or risk of flight);
2. Identify available alternatives to detention, including release to individual or organizational sponsors or pursuant to **ICE's** **ATD** program or on an ICE bond; and
3. Consider the least restrictive alternative available after taking into account the three statutory risk factors.

3.3.2.1 Step 1: Analyze Statutory Risk Factors

Is the Age-Out a:

- Danger to self?
- Danger to the community?
- Flight risk?

Information relating to an Age-Out's danger to self, danger to community, and flight risk is commonly found in the following places:

- ORR's Post-18 Plan and Significant Incident Reports (SIR)

- A-file (especially I-213 narrative)
- Electronic Databases (e.g., **EARM**, **PCQS**, **NCIC**)
- Correspondence from attorney, advocate or representative
- Information provided by Age-Out

Danger to Self

Will the Age-Out harm himself/herself if released? Factors to consider are as follows. This list is not meant to be exhaustive.

- Concern that an Age-Out may not be able to support themselves or might become homeless does not constitute danger to self.
- Rather, danger to self refers to the risk that the Age-Out will harm themselves, and is evidenced by, for example:
 - Mental health issues;
 - Suicide attempts or ideation;
 - A history of self-harm.
- Has the Age-Out been receiving treatment or is there a plan to address such issues if the Age-Out is released?

Danger to Community

Will the individual harm the community (persons or property) if released? Factors to consider are as follows. This list is not meant to be exhaustive.



SECTION 3

- Past criminal/delinquent history?
 - Is the charge still pending or was there a conviction?
 - Recency?
 - Did the crime involve the use/possession of a weapon?
 - Involve harm to person vs. property?
 - Isolated incident vs. pattern or practice of criminal activity?
 - Evidence of rehabilitation?
 - Aggressive behavior toward others while in custody (ORR, state/local, or DHS custody)?

(b)(7)(E)

- Evidence of danger to the community may come from, for example, electronic databases (b)(7)(E), SIRs, and detention in an ORR secure facility.
 - Note that SIRs are issued for many reasons, some of which have nothing to do with danger to the community. Officers should determine the reason for the SIR to assess whether it evidences danger to the community.

Flight Risk

Is there evidence the individual will not appear for future immigration hearings or, if necessary, for removal? Factors to consider are as follows. This list is not meant to be exhaustive.

- Escape history?
- Multiple immigration encounters?
- In absentia order or failure to appear (immigration or criminal)? If so, is there a motion to reopen the in absentia order?
- Order of removal?

NOTE

Danger to self may be addressed by release to a sponsor or group home that has the capability to provide an adequate and appropriate treatment plan that could include counseling and/or medication; however, FOJCs are not trained to determine proper medical treatment and must rely on licensed professionals to determine the best course of treatment.



SECTION 3

An Age-Out's lack of community ties or a fixed address, or length of time in **ORR** custody, either alone or in combination with one another, are **not** justifications to find the Age-Out poses a flight risk and cannot be released on **OREC**.

Does the Age-Out have incentive(s) to appear?

- Community ties/support system in the U.S.?
- Attending school in the U.S. or concrete plans to?
- Pending petitions or applications for relief? Will the Age-Out be residing with others who have or are complying with their own immigration process?

Remember, in most cases, flight risk can be mitigated by release to an individual or organizational sponsor. In some cases where release to a sponsor alone will not mitigate flight risk, flight risk may be mitigated by release pursuant to **ICE's ATD** program or issuance of an ICE bond.

3.3.2.2 Step 2: What Placement Alternatives Are Available?

- ICE cannot determine the least restrictive setting available without first identifying the full range of alternative placements available. This includes taking affirmative steps to identify available settings.
- Potential placements that must be identified and considered include:
 - Individual and organizational sponsors, including shelters or group homes.
 - Other alternatives to detention, such as release pursuant to ICE's ATD program or on an ICE bond.
- Identifying potential sponsors requires inquiry and research.

NOTE

While a pending motion to reopen does not invalidate a removal order unless and until the motion to reopen is granted, it may provide additional information (such as lack of notice) that is relevant to whether the failure to appear is evidence of flight risk. Please note that some motions to reopen are accompanied by automatic stays of removal while the motion is pending. If there are questions about motions to reopen in general or the specific reasons why an Age-Out is moving to reopen his or her case, please consult your local **OPLA** office.



SECTION 3

- If a potential sponsor has already been identified, promptly evaluate the sponsor's availability.
- **ORR's** decision to disqualify a sponsor does not transfer to ICE so officers should not rely on ORR's sponsorship evaluations and decisions.
 - ORR has separate and distinct statutory obligations and sponsorship criteria and standards.
 - Therefore, ORR's inability to vet a sponsor or place an Age-Out with a sponsor does not mean that the sponsor is unavailable or unsuitable.

If ORR does not provide a release recommendation or the name of a potential sponsor—or a sponsor identified by ORR is determined to not be available—the **FOJC** must make additional efforts to identify other available sponsors through the following efforts:

- Review material in the Age-Out's file and on the Form I-213;
- Inquire with the Age-Out's attorney, advocate, or other representative;
- Ask the Age-Out if she/he knows of any potential sponsor (if possible before the Age-Out's 18th birthday or during an in-person interview on the 18th birthday) and encourage the Age-Out to call potential sponsors themselves; and
- Contact shelters, group homes, and organizational sponsors, including those listed on the National Age-Out Shelter List.

These efforts do not need to occur in any particular order; however, before an FOJC determines that no sponsor is available, the FOJC must exhaust all of these options and explain the efforts made in the **AORW**.

- **VAWA** 2013 does not require that an Age-Out be released to a sponsor. The Age-Out may be released on his/her own recognizance.
- Release of an Age-Out without a sponsor is permissible when the Age-Out is determined not to be a danger to self or danger to the community, and the flight risk concerns are limited to minimal ties to the community, which the Court noted is present in almost every case and not justification for denying release on the Age-Out's own recognizance.
- Release of the Age-Out without a sponsor still requires a valid address where the Age-Out may receive correspondence from **EOIR** and **ICE**.
 - Utilize the U.S. Postal Service databases or other database to confirm that the address is valid.
- What about cases that present some indicia of danger to self, danger to community, and/or additional flight risk concerns?
 - Consider whether release to a sponsor – individual or organizational – would mitigate those concerns.
- Sponsors must:
 1. Be an adult; and



SECTION 3

2. Have a fixed address where the Age-Out can reside and receive correspondence from ICE and EOIR.
- Minimum Steps FOJCs should take when evaluating an individual sponsor:
 1. Confirm the sponsor's date of birth to ensure he/she is over 18.
 2. Verify the address (b)(7)(E) using the U.S. Postal Service database: (b)(7)(E)
(b)(7)(E)
 3. Run sponsor's name and date of birth through (b)(7)(E)

Organizational Sponsors

Where an individual sponsor is not available, FOJCs should consider placement with an organizational sponsor, including shelters and group homes. Field Offices should develop relationships with shelters, group homes, and organizational sponsors in its AOR that will accept Age-Outs. FOJCs should also consider organizational sponsors on the National Age-Out Shelter list, which lists those shelters/group homes ICE has released Age-Outs to in the past. The list is available here [National Age Out Shelter List 12DEC2020.xlsx \(sharepoint.com\)](#).

- Promptly contact a minimum of five (5) shelters* from the National Age-Out Shelter List or that the FOJC otherwise identifies to determine if they will accept the Age-Out. FOJCs are not constrained to contacting or releasing to the organizations on this list. FOJCs are encouraged to work collaboratively with other FOJCs within and across AORs and with JFRMU to share information about available organizational sponsors. FOJC must document all efforts made to identify available sponsors.
- Organizational sponsors outside a field office's AOR are perfectly acceptable and should be considered available if closer release options are not. However, the shelter and the



The immigration status and criminal history of a proposed sponsor does not, per se, prevent release of an Age-Out to the sponsor. But they could warrant more restrictive conditions of release, such as ATD or bond, since such a sponsor, standing alone, may not sufficiently mitigate the Age-Out's danger to self, danger to community, or flight risk.



SECTION 3

Age-Out are responsible for coordinating transportation from the **ORR** facility to the sponsor.

*If an available sponsor is identified before contacting 5 shelters, the **FOJC** does not need to continue contacting additional shelters.

General Requirements for Identifying and Releasing to Sponsors

Per **VAWA** 2013, **ICE** must exercise reasonable due diligence to identify potential sponsors and such efforts should be detailed in the **AORW**. **FOJCs** should make every effort to complete these efforts, to the extent possible, before the **UAC**'s 18th birthday. If the Age-Out is being released, release must occur as expeditiously as possible. The Age-Out should not be detained any longer than is necessary to complete the release paperwork.



Age-outs are eligible for release on ICE's ATD Program.

Other Alternatives to Detention

Other alternatives to detention include:

- A. Release with **ATD** – Release + GPS monitoring or phone monitoring pursuant to ICE's Alternatives to Detention program.
- ICE's Alternatives to Detention (ATD) Program is a flight-mitigation tool that uses technology and case management to ensure compliance.
- To be eligible, an immigrant must be 18 years of age or older, removable, and at some stage of immigration proceedings.
- The ATD Program utilizes three (3) different forms of technology that help monitor participants while enrolled in the program--Telephonic reporting, GPS monitoring, and SmartLink.



SECTION 3

- **ATD** is currently available in over 94 locations nationwide for eligible participants residing within all 25 **AORs**.

B. ICE Bond – requires an obligor to post a set dollar amount as collateral for the Age-Out's release (other conditions of release may be imposed).

Immigration bonds are primarily issued where a noncitizen who has been placed in removal proceedings is released from ICE custody.

- The bond requires the noncitizen to appear in response to a properly issued notice to surrender on a particular date at a particular place and time (a "demand notice").
- The person or company that posted the bond (the obligor) forfeits the face value of the bond if the obligor or the non-citizen fails to comply with the terms and conditions of the bond.

By regulation, immigration bonds may be secured by cash or cash equivalent or by a surety company authorized by the Department of the Treasury to post bonds on behalf of the Federal government.

The following persons can post a bond on behalf of an Age-Out (or any noncitizen): U.S. Citizens; Lawful Permanent Residents; law firms; non-profit organizations.

- **INA § 236(a)(2)(A)**: minimum bond is \$1,500
- If a bond higher than \$1,500 is placed on an Age-out, the **FOJC** must justify, with detail, the basis for the increased amount.

The issuance of a bond is intended to mitigate flight risk only. See *Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009) ("Immigration Judge should only set a bond if he first determines that the alien does not present a danger to the community.")

Factors to consider when deciding whether to set a bond and the bond amount include, but are not limited to: "(1) whether the immigrant has a fixed address in the United States; (2) the immigrant's length of residence in the United States; (3) the immigrant's family ties in the United States, (4) the immigrant's employment history, (5) the immigrant's record of appearance in court, (6) the immigrant's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses, (7) the immigrant's history of immigration violations; (8) any attempts by the immigrant to flee prosecution or otherwise escape from authorities; and (9) the immigrant's manner of entry to the United States." See *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).



SECTION 3

Consult with your local **OPLA** office to find out if jurisdiction-specific case law or settlement agreements require or prohibit you from considering additional factors.

These alternatives to detention **MUST BE CONSIDERED** in every Age-Out custody determination where release to a sponsor alone does not mitigate an Age-Out's flight risk and/or danger to self or the community.

3.3.2.3 Step 3: Determine and Consider the Least Restrictive Setting Available.

- Once you have gathered available evidence relating to whether the Age-Out is a danger to self, danger to community, or flight risk, and identified alternative placements available, you must determine--and consider--the alternative that is the least restrictive setting.
- You must identify and consider the alternatives to detention that are available as *part of* your placement determination, including whether to release or detain the Age-Out.
 - An officer cannot determine which placement is "the least restrictive available" without first identifying those alternatives that are available.
 - If an alternative is identified and available, it must be considered.
- If an Age-Out is not a danger to self, danger to the community, or a flight risk, **OREC**, **OSUP** or parole will likely be the least restrictive setting available.
- In most cases, concern that an Age-Out is a flight risk can be mitigated by release to an individual or organizational sponsor.



All Age-Outs can be considered for issuance of bond.



SECTION 3

- In those cases where release to a sponsor alone will not mitigate flight risk (e.g., prior escape attempts), release pursuant to the **ATD** program or an **ICE** bond may be the least restrictive setting available.

3.3.3 Risk Classification Assessment (RCA) Tool

(b)(7)(E)



(b)(7)(E)

3.3.4 Timing: When to Start and When to Stop

Where possible, an officer should begin identifying any evidence of the risk factors and identifying potential sponsors at least two weeks before the **UAC**'s 18th birthday. This includes calling the **UAC**'s case manager to request a Post-18 Plan and discuss the status of **ORR**'s efforts to reunify the **UAC**, any special health or other needs or problems, and identify potential sponsors.

- **FOJCs** should comply with the statute, including identifying and considering the least restrictive placement available, on or before the day the Age-Out turns 18.
- However, if for some reason compliance does not occur by that date, **ICE** officers are not relieved of their obligation to follow **VAWA** 2013 at the end of the day on the Age-Out's eighteenth birthday. Rather, officers must continue working as long as



SECTION 3

it takes to fulfill their obligations under the statute.

- However, the statute does not require “periodic re-assessment” of a decision once it has been made.

3.3.5 JFRMU Concurrence

If the FOJC/SDDO determine that ATD, ICE bond, or detention is appropriate, the FOJC/SDDO **must seek JFRMU concurrence prior to finalizing the custody determination**. Promptly contact JFRMU (by email or phone). Be prepared to electronically share all the materials and information that you collected and considered to arrive at the particular custody determination, and to discuss how you weighed the statutory factors, what steps you took to identify/evaluate alternatives to detention, and why you reached the determination.

3.3.6 Documenting Your Decision – When, Where, and How

Timely, accurate and detailed records are critical to completing the Age-Out custody determination process.

- Record all of your considerations and efforts required under VAWA 2013 contemporaneously with your recommendation/ custody decision.
- Such considerations and efforts should be recorded on the newly amended Age-Out Review Worksheet (AORW), ICE

Form 70-070.

- Detail is key!
 - If it is not included in the AORW, it will be difficult to demonstrate that you considered it.
- Add the case and accompanying documents to SharePoint.
 - If the determination is release of the Age-Out on ATD or an ICE bond or to detain, the injunction requires that specific documents be uploaded to SharePoint, to the extent they exist. The required documents are outlined further down in this section.
- Enter detailed comments in EARM, to include the date of age-out, VAWA custody determination, and date that AORW and SharePoint materials were uploaded.
- Complete an addendum to I-213 summarizing the VAWA 2013 evaluations and determination.
- The injunction also requires ICE to provide, on a monthly basis, copies of AORWs and SharePoint materials for each age-out, as well as certain statistics.

Amended Age-Out Review Worksheet: What's New?

The AORW has been revised to comply with the Court's decision and the process set forth in this handbook. As revised, the AORW is intended to guide the FOJC through the Age-Out custody determination process and to provide evidence of the FOJC's compliance with his or her obligations pursuant to 8 U.S.C. § 1232(c)(2)(B).



SECTION 3

- The **AORW** now includes a section for **JFRMU** concurrence if recommendation is detention, issuance of bond or release on ICE's **ATD** program.
- The revised AORW requires that you detail the information you collected and relied upon during the custody determination process. This includes the sponsors and other placement alternatives you identified and considered.
- Just providing conclusory answers (e.g., "Age-Out is a flight risk," "no sponsor available" or "no viable sponsor") are not acceptable. Instead, you are to explain your efforts, thought process, and analysis in the provided narrative boxes!
- AORWs should only be completed by the **FOJC** and supervisor involved in the Age-Out's custody determination. **Do not complete an AORW on behalf of another officer.**

SharePoint

For Age-Outs who are placed on ATD, issued an ICE Bond, or detained, FOJCs must upload and attach to the SharePoint record all documents they considered in reaching the placement determination. This includes:

1. The Age-Out Review Worksheet (ICE Form 70-070);
2. All Post-18 Plans received from **ORR**;
3. Copies of all emails or other communications with ORR, the Age-Out's attorney or representative, any potential individual

or organizational sponsor, or any other third-party, or within ICE, concerning the placement of such Age-Out;

4. The Age-Out's Form I-213;
5. Any comments relating to the Age-Out in ICE's Enforcement and Removal Module ("EARM") database; and
6. Any other documents considered or relied on by ICE in making or relating to ICE's placement determination.

For Age-Outs who are released from ICE custody with no additional conditions (ATD/Bond), FOJCs must upload and attach the following documents to the SharePoint record:

1. The Age-Out Review Worksheet (ICE Form 70-070); and
2. Post-18 Plan, if submitted by ORR.

Add the case to the SharePoint site and upload the accompanying documents within 24 hours of making the final custody determination.

3.3.7 Putting it All Together: Process Overview

- Keep track of and monitor UACs who are close to aging out.
- Reach out to ORR two (2) weeks in advance of the UAC's 18th birthday (where possible) to request a Post-18 Plan.
- If ORR does not provide a Post-18 Plan, check to see if the UAC is represented by counsel/representative and contact



SECTION 3

that individual to find out if there is anyone willing and able to accept the Age-Out.

- Look for point of contact information in the Form I-213 and A-File.
- Request to interview (in-person or by phone) the **UAC** to identify potential sponsors (if needed).
- Still no sponsor available or to whom the Age-Out can be released? Contact a minimum of five (5) shelters, including those on **JFRMU** intranet site to see if they have housing available to accept the Age-Out.
- If no individual or organizational sponsor is available, or there are flight risk concerns that are not addressed by release to a sponsor, consider release pursuant to the **ATD** program or on an **ICE** bond.
- Consider all available alternatives in determining the least restrictive setting available after taking into account the Age-Out's danger to self or community or flight risk.

Promptly consider alternatives to detention identified through efforts described previous.

- Is **release without a sponsor** appropriate after taking into account the noncitizen's danger to self, danger to the community, and risk of flight?
- Is **release to a sponsor** appropriate after taking into account the noncitizen's danger to self, danger to the community, and

risk of flight?

- Is **release with ATD** appropriate after taking into account the noncitizen's danger to self, danger to the community, and risk of flight?
- Is **issuance of a bond** appropriate after taking into account the noncitizen's danger to self, danger to the community, and risk of flight?
- Is **detention** appropriate after taking into account the non-citizen's danger to self, danger to the community, and risk of flight?

To the maximum extent possible and in coordination with **ORR**, arrange for Age-Out releases to occur directly from the ORR facility.

- **FOJC** completes **AORW** and submits to supervisor for review.
 - For more complicated cases or those in which the recommendation is to detain the Age-Out, begin discussing the case with your supervisor as soon as possible.
- Recommendations to detain or issue a bond or place on ICE **ATD** must be approved by **JFRMU** in advance of finalizing the custody determination.

Once supervisor makes a custody determination, promptly:

- Create case in SharePoint.
- Upload **AORW** + supporting documentation.



SECTION 3

- Update **EARM** using the correct book-out code and add case comments.
- summarize **VAWA** 2013 determination in I-213 addendum.

3.3.8 Best Practices

- Get to know your **ORR** counterparts and ORR facilities in your **AOR**.
- Keep track of upcoming possible Age-Outs. The **UAC** Portal should be used for docket reconciliation and **EARM** should be used for docket management. **FOJCs** should keep a list from the **EARM** juvenile docket with the potential Age Outs and review it on a weekly basis and set call-ups.
- o the extent possible, **FOJCs** should contact the **UAC**'s case manager at least two (2) weeks before the **UAC**'s eighteenth birthday, (a) to request a Post-18 plan, and (b) to discuss the status of **ORR**'s efforts to reunify the **UAC** with family members or friends in the U.S., any special health or other needs or problems the **UAC** may have, and the identity, address, and contact information for any potential individual or organizational sponsors.
- Record your efforts to evaluate placement options in detail and do so in a timely manner.

3.3.9 Documenting Your Decision – When, Where, and How

Timely, accurate and detailed records are critical to completing the Age-Out custody determination process.

- Record all of your considerations and efforts required under **VAWA** 2013 contemporaneously with your recommendation/custody decision.
- Such considerations and efforts should be recorded on the newly amended Age-Out Review Worksheet (**AORW**), **ICE** Form 70-070.
- Detail is key!
 - If it is not included in the **AORW**, it will be difficult to demonstrate that you considered it.
- Add the case and accompanying documents to SharePoint.
 - If the determination is release of the Age-Out on **ATD** or an **ICE** bond or to detain, you must upload all documents that you considered in making your placement determination.
- Enter detailed comments in **EARM**, to include the date of age-out, **VAWA** custody determination, and date that **AORW** and SharePoint materials were uploaded.
- Complete an addendum to I-213 summarizing the **VAWA** 2013 evaluations and determination.



SECTION 3

Amended Age-Out Review Worksheet: What's New?

The **AORW** has been revised to comply with the Court's decision and the process set forth in this handbook. As revised, the AORW is intended to guide the **FOJC** through the Age-Out custody determination process and to provide evidence of the FOJC's compliance with his or her obligations pursuant to 8 U.S.C. § 1232(c)(2)(B).

- The AORW now includes a section for **JFRMU** concurrence if recommendation is detention, issuance on bond or release on ICE's **ATD** program.
- The revised AORW requires that you detail the information you collected and relied upon during the custody determination process. This includes the sponsors and other placement alternatives you identified and considered.
- Just providing conclusory answers (e.g., "Age-Out is a flight risk," "no sponsor available" or "no viable sponsor") are not acceptable. Instead, you are to explain your efforts, thought process, and analysis in the provided narrative boxes!
- AORWs should only be completed by the FOJC and supervisor involved in the Age-Out's custody determination. Do not complete an AORW on behalf of another officer.

SharePoint

For Age-Outs who are placed on ATD, issued an ICE Bond, or detained, FOJCs must upload and attach to the SharePoint record all documents they considered in reaching the placement determination. This includes:

1. The Age-Out Review Worksheet (ICE Form 70-070);
2. Any Post-18 Plan or other communication with **ORR**;
3. Any communication with the Age-Out's attorney or other representative;
4. Form I-213;
5. Any communications with or concerning potential sponsors;
6. Print-outs of the **EARM** Case Comments;
7. Electronic/scanned copy of documents in the A-file related to the custody determination; and
8. Any other document (not in the A-File) and any other email traffic related to that particular Age-Out.

For Age-Outs who are released from ICE custody with no additional conditions (ATD/Bond),

FOJCs must upload and attach the following documents to the



SECTION 3

SharePoint record:

1. The Age-Out Review Worksheet (ICE Form 70-070); and
2. Post-18 Plan, if submitted by **ORR**.

Add the case to the SharePoint site and upload the accompanying documents within 24 hours of making the final custody determination.

3.3.10 Putting it All Together: Process Overview

- Keep track of and monitor **UACs** who are close to aging out.
- Reach out to **ORR** two (2) weeks in advance of the **UAC's** 18th birthday (where possible) to request a Post-18 Plan.
- If **ORR** does not provide a Post-18 Plan, check to see if the **UAC** is represented by counsel/representative and contact that individual to find out if there is anyone willing and able to accept the Age-Out.
- Look for point of contact information in the Form I-213 and A-File.
- Request to interview (in-person or by phone) the **UAC** to identify potential sponsors (if needed).
- Still no sponsor available or to whom the Age-Out can be released? Contact a minimum of five (5) shelters, including those on **JFRMU** intranet site to see if they have housing available to accept the Age-Out.

- If no individual or organizational sponsor is available, or there are flight risk concerns that are not addressed by release to a sponsor, consider release pursuant to the **ATD** program or on an ICE bond.
- Consider all available alternatives in determining the least restrictive setting available after taking into account the Age-Out's danger to self or community or flight risk.

Promptly consider alternatives to detention identified through efforts described previous.

- Is **release without a sponsor** appropriate after taking into account the alien's danger to self, danger to the community, and risk of flight?
- Is **release to a sponsor** appropriate after taking into account the alien's danger to self, danger to the community, and risk of flight?
- Is **release with ATD** appropriate after taking into account the alien's danger to self, danger to the community, and risk of flight?
- Is **issuance of a bond** appropriate after taking into account the alien's danger to self, danger to the community, and risk of flight?
- Is **detention** appropriate after taking into account the alien's danger to self, danger to the community, and risk of flight?



SECTION 3

To the maximum extent possible and in coordination with **ORR**, arrange for Age-Out releases to occur directly from the ORR facility.

- **FOJC** completes **AORW** and submits to supervisor for review.
 - For more complicated cases or those in which the recommendation is to detain the Age-Out, begin discussing the case with your supervisor as soon as possible.
- Recommendations to detain or issue a bond or place on **ICE ATD** must be approved by **JFRMU** in advance of finalizing the custody determination.

Once supervisor makes a custody determination, promptly:

- Create case in SharePoint.
- Upload **AORW** + supporting documentation.
- Update **EARM** using the correct book-out code and add case comments.
- Summarize **VAWA** 2013 determination in I-213 addendum.

3.3.11 Best Practices

- Get to know your ORR counterparts and ORR facilities in your **AOR**.
- Keep track of upcoming possible Age-Outs. The **UAC** Portal should be used for docket reconciliation and **EARM** should be used for docket management. **FOJCs** should keep a list from the **EARM** juvenile docket with the potential Age Outs and review it on a weekly basis and set call-ups.

- To the extent possible, **FOJCs** should contact the **UAC**'s case manager at least two (2) weeks before the **UAC**'s eighteenth birthday, (a) to request a Post-18 plan, and (b) to discuss the status of **ORR**'s efforts to reunify the **UAC** with family members or friends in the U.S., any special health or other needs or problems the **UAC** may have, and the identity, address, and contact information for any potential individual or organizational sponsors.
- Record your efforts to evaluate placement options in detail and do so in a timely manner.

34 Removals and Returns

In accordance with the **TVPR**, repatriation will be effected at no cost to the minor. Associated costs will be borne by **ICE**, which will coordinate and arrange all travel plans with the **UAC**, consulate, **ORR** shelter (if any), and **UAC**'s sponsor. **ICE** will coordinate with the family in the home country when possible.

ERO is obligated to provide a safe and supervised return of **UAC**. When an **IJ** issues a final order of removal or grants voluntary departure, follow standard removal procedures.



SECTION 3

ERO's priority is to preserve family unity during repatriation. To best preserve family unity while protecting children:

- Verify kinship with the consulate to safeguard minors from smugglers or other threats before repatriation;
- Coordinate with each consulate to verify citizenship before transporting to the country of origin; and
- Prior to transporting a UAC to the land border, verify with the local FOJC the established hours of operation for receiving UAC. Minors and females have special limitations on when (time of day) they are able to cross from the United States.

Minors must be repatriated under additional safeguards, including:

- Allowing the UAC to communicate with a consular official before departure;
- Upon arrival at the destination, the receiving official acknowledging the custody transfer by signing the I-216;
- Forwarding the signed I-216 to the originating FOJC to update his or her records;
- Per ERO policy, returning each UAC in the appropriate clothing (including outerwear) for the current climate conditions.³³

Most UAC repatriations occur via commercial air, (b)(7)(E) assigned to one UAC and (b)(7)(E) for subsequent groups of five or more. When the transport includes both male and female UAC, the escort must include staff of each gender whenever possible.



ORR may request additional information that cannot be found in the NCIC criminal history. If this happens, respond to ORR to assist in placing UAC in the appropriate facility placement type.

³³ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § F, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.



SECTION 3

In some cases, the receiving country of nationality or citizenship may request that its respective consular official escort the UAC on a return flight. These types of escorts may be granted on a case-by-case basis.

- For repatriation requirements specific to Mexico, including the daylight hours during which custody transfers may occur, see your “Local Arrangement for Repatriation of Mexican Nationals or Memorandum of Understanding” and the *ICE Air Operations Handbook*.
- Consult with Removal and International Operations for guidance on repatriations to El Salvador, Honduras, or Guatemala and guidance on the Electronic Nationality Verification Program.

Current policies regarding repatriation are outlined in the TVPRA, “Local Repatriation Agreements,” and the “April 2008 Repatriation and Custody Transfer of UAC in ICE to Foreign Officials Policy.”

The following list of established requirements is derived from ERO policies:

- Return the UAC only during daylight hours (local agreements are in effect for each receiving government authority);
- Return the UAC through a port designated for repatriation; and
- Provide the UAC the opportunity to communicate with a consular official prior to departure for the home country.

All escorting officers removing UAC to a country of origin are required to have the receiving government official or designee sign Form I-216, indicating the safe transfer of custody for all UAC listed. Once the appropriate foreign government official or designee signs the form, the I-216 will serve to document the safe repatriation and transfer to a government authority for all UAC listed. A copy of this form will be placed in the UAC’s A-file after the officer/agent returns to his or her field office or be forwarded to the A-file controlling office.

NOTE

If a juvenile has *any* legal status in the United States, he or she is not considered a UAC.

Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § A, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.



SECTION 3

Should the foreign government official or designee refuse to sign Form I-216, the officer/agent will document the official's name (if known), date, time, and port, and will note the refusal. A copy of this form will be placed in the UAC's A-file after the officer/agent returns to his or her field office, or forwarded it to the A-file controlling office.³⁴

When a UAC has been issued a Voluntary Departure or Removal Order, the coordination of repatriation will begin with updating the case category. For each type of repatriation, steps are outlined below:

Consulate Travel Document Request:

- Submit via Electronic Travel Document (eTD);
- ORR may facilitate the interview;
- FOJCs must coordinate the various steps of the travel document process with ORR to ensure timely interviews and issuance.

Note: Follow local best practices for obtaining travel documents.

Local Repatriation:

- Consulate notification;
- Transportation Arrangements;
- Repatriation must take place within regular business hours;
- Place copy of I-216 in A-file.



ICE will incur all travel expenses for UAC, regardless of the type of order issued by an IJ.

³⁴ Repatriation and Custody Transfer of UAC in ICE Custody to Foreign Government Officials, Policy 110491, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, April 17, 2008.



SECTION 3

International Repatriation:

Coordinate with the **AOR**'s respective travel unit to:

- Request escorting officers;
 - Ensure at least one officer is the same gender.
- Coordinate with **CONCUR** for itinerary;
- Submit Threat Assessment to HQ Travel Unit (submit assessment 10 business days prior to the transport):
 - Risk assessment;
 - Flight itinerary;
 - Threat assessment;
- HQ Removal Unit will provide the country clearance notification;
- Coordinate with consulate and/or legal representative so family in home country can be contacted; and
- Have a consular/government official sign for juvenile and upon return, place copy of I-216 in A-file.

ICE Air Charter flights:

- Check for charter flights going to the country to which the **UAC** has been ordered removed. Consult with **IAO** for any needed assistance. There is a local unit within each AOR responsible for coordinating **ICE** Air Charter flights.

34.1 Electronic Nationality Verification

ERO extended the Electronic Nationality Verification (ENV) program to include **UAC** ordered removed pursuant to §240 proceedings from Guatemala, Honduras, and El Salvador. Those **UAC** are now eligible for removal to these countries on **ICE** charter flights without a travel document or passport.

Normally, **UAC** are eligible for removal to El Salvador, regardless of age. **UAC** must be 13 and older for removal to Honduras and 14 and older for removal to Guatemala.

Cases should meet the following conditions:

- Criminal or Non-criminal;
- Have made an affirmative claim to citizenship;
- Have no medical concerns, except for those returning to Honduras;
- Have an executable final order of removal.

The following cases should NOT be included in ENV

(b)(7)(E)



SECTION 3

Requirements:

- Consular notification must continue to be made consistent with current guidelines;
- Possession of the country's identity document (ID) is preferred, but not required;
- When available, national ID and/or Passport numbers must be listed in the comment section of the I-216 manifest;
- Cases without an ID/Passport number available must be annotated in the comment section of the I-216 manifest as "No Docs";
- ID and Passports, when available, must be placed in the UAC's property, with a copy in the A-file;
- All UAC property must be carefully tagged and accounted for.

For those UAC returning to Guatemala, a copy of the charging document, executable final order of removal, and a photo must be stapled as a packet to turn over to Guatemalan officials, in lieu of a travel document (TD).

For those UAC returning to Honduras, cases MUST reflect the city and state where the returning Honduran national will reside upon arrival in Honduras. This information should be entered into EARM Comments and must be annotated in the comments section of the I-216.

For those UAC returning to El Salvador, a properly serviced copy of the Orantes rights must be included in the A-file.

Field offices are not required to upload and complete TD requests into the Electronic Travel Document System (eTD) for ENV removals.



Follow local best practices for obtaining travel documents.



SECTION 3

3.5 Specific Case Scenarios

3.5.1 Law Enforcement Agency Referrals

On occasion, a local law enforcement agency (LEA) may contact an **FOJC** to request that a detainer be placed on a juvenile in its custody. In these circumstances, consider the following as possible factors for consideration:

Runaways: If the juvenile is a runaway from an **ORR** facility, and the minor still meets the definition of UAC requiring another referral to ORR, the FOJC can alert ORR Intakes to designate a new secured facility placement. The FOJC may need to coordinate with their transportation unit to have the UAC transferred back to ORR custody. It is highly recommended that local management have an existing procedure in place regarding how best to handle runaways.

Minors with Criminality: If the referral is from a juvenile detention facility, the FOJC should make arrangements for an interview and coordinate placing a detainer, if appropriate. Once transferred into ERO's custody, UAC should be referred to ORR. AC should be referred to **JFRMU** for the approval to detain and placement into an IGSA.

Non-Arrested Minors: If the FOJC is contacted by a law enforce-

ment officer (LEO) to pick up a minor who was encountered in the field and is believed to be a foreign national, but not formally charged with any crime, the FOJC should confirm if the minor is removable from the United States.

- If the minor is removable from the United States, even in the absence of a criminal charge, **ICE** can take custody of the minor and refer to ORR for placement housing if the minor is a UAC. If the minor is not a UAC, the matter can be referred to JFRMU to find placement if the case meets the criteria laid out in the [FSA](#).
- If the minor is not deemed removable, refer the **LEO** to the consulate representative who can best assist with contacting family for reunification or locating an **NGO** as a potential sponsor. If these options cannot be pursued, refer **LEA** to the local Child Protective Services office so they can take custody.

3.5.2 Interior ERO Apprehensions

In some cases, minors are apprehended within the United States interior through enforcement actions on the part of ICE or by other Federal, State, or local agencies. During enforcement actions, once immigration status is determined, FOJCs are responsible for ensuring that bed space is requested within established protocols for both



SECTION 3

UAC and AC and coordinating transport.

It is considered best practice for a FOJC to accompany Fugitive Operations teams when there is potential for a targeted alien to be a minor. When a minor is apprehended during interior enforcement activities, the FOJC must:

- Determine whether the minor is accompanied³⁵ or unaccompanied;
- Seek contact information for a parent or guardian (if not present at the minor's apprehension);
- Provide the family with contact information so the family can contact the FOJC regarding the minor's immigration and detention status;
- Obtain any medications currently prescribed to the minor and ensure any medical concerns expressed by the minor are addressed appropriately.

All ERO officers are responsible for ensuring the minor is processed in accordance with the TVPRA and/or FSA guidelines; however, the FOJC serves as the SME. If the minor is determined to be a UAC,

³⁵ Field Offices must receive JFRMU approval before taking an accompanied minor into custody as required by the FSA.

³⁶ Enforcement and Removal Operations: Fugitive Operations Handbook, October 30, 2018.

³⁷ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § A-D, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.

the FOJC must contact ORR to request placement.³⁶

3.5.3 UAC with Convictions

All minors who meet the UAC criteria are to be referred to ORR for placement.³⁷

When referring a UAC with a conviction to ORR for placement:

- Include the UAC's criminal history on the UAC Initial Placement Referral Form or add the criminal history to the referral through the (b)(7)(E) [redacted]. Include all arrests, convictions, and delinquency findings, including charges that were dismissed and arrests without a disposition. If placement was requested through the (b)(7)(E) [redacted], documents can be emailed directly to ORR Intakes (b)(7)(E) [redacted]@acf.hhs.gov after the request for placement has been submitted.
- Provide relevant agency (e.g., probation office) point of contact information for ORR to enable ORR to follow up when necessary.



SECTION 3

3.54 Sponsorship Breakdown after ORR Release

Sometimes sponsorship breaks down once **ORR** releases a minor from its care. **ERO** may be made aware of these situations by the sponsor themselves, the **UAC**, local law enforcement, and/or local child protection agencies. When **ERO** becomes aware of a case involving a sponsorship breakdown, the **FOJC** should immediately contact **ORR** for assistance. **ORR** may require a new referral (submitted through the [UAC Portal](#)) from a Federal agency prior resuming custody of the **UAC**. In some instances, particularly when a minor's safety may be at risk, the local **ERO** office may, at the discretion of the **FOD**, assist and re-refer the minor to **ORR** care. With **FOD** approval, the **FOJC** may arrange for the **UAC** to be transported from his or her current location to a newly designated **ORR** shelter.

Should sufficient resources not be available to assist, or when the minor's safety is not in question, the **FOJC** may:

- Recommend that the sponsor refer the **UAC** to local **CPS**;
- Contact the respective consulate to identify an **NGO** willing to sponsor the **UAC**;
- Recommend that the sponsor contact local authorities if the sponsor thinks he/she and/or the **UAC** are in danger;
- Advise the current sponsor to notify the court of the change so that the **IJ** is aware of the situation.

The **FOJC** must also do the following:

- Notify the **OPLA** trial attorney of the sponsorship breakdown prior to the next **EOIR** hearing; and
- Note the issue in the **EARM** comments section for future reference.

When the **FOJC** becomes aware that a minor is at risk and **ICE** declines to intervene directly as



NOTE

If a juvenile has *any* legal status in the United States, he or she is not considered a **UAC**.

[Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 \(TVPRA\) & Violence Against Women Reauthorization Act of 2013 \(VAWA\), § A, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.](#)



SECTION 3

described above, the **FOJC** must contact local child welfare authorities and/or local law enforcement authorities.

3.5.5 Non-UAC Minors with Status

A legal permanent resident (LPR) minor may not be taken into **ICE** custody unless he or she has been convicted of a crime as an adult that makes them removable from the United States. If an **LPR** minor has been convicted of a crime as an adult that makes him or her removable, he or she may be housed at a **JFRMU** approved juvenile facility. To house an LPR minor who has been deemed removable from the United States at an approved facility, the **FOD** and **JFRMU** must review and approve the case.

Note: If a minor has any legal status in the United States, he or she is not considered a **UAC**.³⁸

3.5.6 Accompanied Minors Who Are Delinquent or Are Chargeable as Delinquent

The **FSA** sets specific rules regarding the detention of accompanied minors. The criteria for secure custody are listed under paragraph 21 of the **FSA**:

A minor may be held in or transferred to a suitable State or

³⁸ Field Guidance for the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) & Violence Against Women Reauthorization Act of 2013 (VAWA), § A, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations, January 13, 2016.

county juvenile detention facility or a secure INS detention facility, or INS-contracted facility, having separate accommodations for minors, whenever the District Director or Chief Patrol Agent determines that the minor:

A. has been charged with, is chargeable, or has been convicted of a crime, or is the subject of delinquency proceedings, has been adjudicated delinquent, or is chargeable with a delinquent act; provided, however, that this provision shall not apply to any minor whose offense(s) fall(s) within either of the following categories:

- i. Isolated offenses that (1) were not within a pattern or practice of criminal activity and (2) did not involve violence against a person or the use or carrying of a weapon (Examples: breaking and entering, vandalism, DUI, etc. This list is not exhaustive.);*
- ii. Petty offenses, which are not considered grounds for stricter means of detention in any case (Examples: shoplifting, joy riding, disturbing the peace, etc. This list is not exhaustive.);*

As used in this paragraph, “chargeable” means that the INS has probable cause to believe that the individual has committed a specified offense;



SECTION 3

B. has committed, or has made credible threats to commit, a violent or malicious act (whether directed at himself/herself or others) while in INS legal custody or while in the presence of an INS officer;

C. has engaged, while in a licensed program, in conduct that has proven to be unacceptably disruptive of the normal functioning of the licensed program in which he or she has been placed and removal is necessary to ensure the welfare of the minor or others, as determined by the staff of the licensed program (Examples: drug or alcohol abuse, stealing, fighting, intimidation of others, etc. This list is not exhaustive.);

D. is an escape-risk; or

E. must be held in a secure facility for his or her own safety, such as when the INS has reason to believe that a smuggler would abduct or coerce a particular minor to secure payment of smuggling fees.

In addition to those items listed in Section 2.1 “The Flores Settlement Agreement,” Flores Advisals and Notice of Right to Judicial Review are required (See *Flores v. Lynch*, No. 15-56434, 828 F.3d 898 (9th Cir. Jul. 6, 2016)).

Note: When authorized, and upon the minor’s placement in an ICE-approved over 72 hour facility, the FOJC retains case management responsibilities for that minor. In addition to A-file management responsibilities (See Section 3.24 “Reviewing Charging Documents”) the FOJC must conduct regular and ongoing site visits of the facility to meet with the detained minor and to monitor com-

NOTE

In all instances when ICE seeks to detain an accompanied minor under this provision, JFRMU approval is required.



SECTION 3

pliance with the requirements under the *FSA*. These visits should occur no less than monthly but may be more frequent based on the specifics of each case. The **FOJC** should be available to answer any questions or concerns the minor might have and should ensure the minor has received a list of free or low-cost legal services and other locally available legal-orientation materials. The **FOJC** should engage with program staff to obtain information regarding the minor's conditions of detention and acclimation to the Center that include but are not limited to the minor's educational progress and information obtained through facility administered needs assessments and other screenings. The **FOJC** will update **EARM** case comments with dates of site visits and relevant information as appropriate.

3.5.7 Accompanied Minors and Notice of Rights to Bond Redetermination

An accompanied minor in removal proceedings will be afforded a bond hearing before an **IJ**. The accompanied minor can indicate on the Notice of Custody Determination that he or she refuses the hearing. The accompanied minor has the right to change his or her mind and seek a bond hearing at any time. The accompanied minor's attorney or legal representative can request a bond hearing from the **EOIR**.

3.5.8 Emancipated Minors

Juvenile emancipation is a legal mechanism by which a minor is legally freed from parental or guardian control. In many instances, emancipated minors are considered adults in the eyes of the law, but this varies from State-to-State. For immigration purposes, **ICE** should consider all individuals under the age of 18 as a minor for custody purposes.

There are no exceptions to the statutory definition of **UAC** for emancipated minors still under 18 years of age. If a minor qualifies as a **UAC** under the definition of a **UAC**, **ORR** is responsible for his or her care and custody. The emancipated **UAC** should be treated as a **UAC** and transferred to **ORR** within 72 hours.

3.5.9 Married **UAC**

A minor can be married and therefore emancipated before turning 18 years of age. In this situation, the married minor should be treated as a **UAC** for care and custody purposes because he or she still meets the statutory definition.

There are no exceptions for married minors under the **UAC** definition. If a minor qualifies as a **UAC** under the definition of a **UAC**, **ORR** is responsible for his or her care and custody. The married juvenile (**UAC**) should be treated as a **UAC** and transferred to **ORR** within 72 hours.



SECTION 3

3.5.10 ORR Runaway Cases

If a **UAC** becomes a runaway and departs from an area without authorization, the agency with custody will immediately notify local law enforcement agencies. If a **UAC** escapes from **ORR** custody, **ORR** must notify the **FOJC** within 24 hours of the escape and provide **ICE** a copy of the Significant Incident Report (SIR).

Within 24 hours of receiving **ORR**'s **SIR**, the **FOJC** must complete the [ORR UAC Runaway Worksheet](#) on the [JFRMU ORR Runaway SharePoint site](#) and attach all relevant files: (b)(7)(E)

(b)(7)(E)

Each **SIR** should contain the A-number, height, weight, type of clothing, and direction of flight (if known).

If a **UAC** has a pending case with **EOIR**, the **FOJC** will notify **OPLA** so that the **PLANet** can be updated.

The **FOJC** will provide the **SIR** to **OPLA** to file at the next hearing date if the **UAC** fails to appear so that **OPLA** can request an order in absentia.

When notified of an **ORR** runaway, the **FOJC** must book out the **UAC** from custody in **EADM** by choosing "ORR Runaway" from the drop-down menu of release-reasons. The release-reason "Escaped" applies only in the case of a **UAC** absconding from **ERO** custody.

NOTE

While the **TVPA** defines a **UAC** as under the age of 18, individuals under the age of 21 may apply for **SIJS** status and adjustment of status based on the approved **SIJS**.



SECTION 3

3.5.11 Special Immigrant Juvenile Status

Special Immigrant Juvenile Status (SIJS) is one of the most common forms of legal relief available to **UAC** for legal permanent residence. **UAC** who establish that they have been abused, neglected, or abandoned by one or both parents may be eligible to apply for **SIJS**.

Previously, under the Homeland Security Act, minors seeking **SIJS** were required to obtain “specific consent” from **ICE** before related proceedings could begin. Under the **TVPPRA 2008**, **SIJS**-specific consent authority was transferred to **ORR**. These minors cannot be reunited with a parent due to the findings of abuse, abandonment, neglect, or similar issues. Approval of an **SIJS** petition allows foreign national minors to seek a lawful permanent resident status once their priority date is current and there is a visa number available.³⁹ **UAC** granted lawful permanent resident status through **SIJS** cannot petition for their parents to obtain lawful status.

To apply for **SIJS**, **UAC** must have a court order with the following findings:

- Certification that the minor is a ward of the State due to abuse, neglect, or abandonment; and
- Determination that it is not in the minor’s best interest to

³⁹ As of the July 2016 Department of State Visa Bulletin, there are still no visa numbers available for minors from El Salvador, Guatemala, Honduras, and Mexico who didn’t file their Form I-360 with USCIS prior to January 1, 2010.

return to his or her home country.

3.6 Collection of Biometrics for **UAC** who turn 14 while in **ORR** Custody

Federal law and **DHS** policy require that biometric data be collected for minors once they reach 14 years of age. (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

If **FOJCs** are met with resistance from any **ORR** program, the **FOJC** should immediately notify **JFRMU** for resolution with **ORR** leadership. In some instances, a **G-56** may be issued to have the **ORR** program transport the **UAC** to the **ICE** field office for biometric collection. If a **G-56** is issued, please make sure to include the section



SECTION 3

of the law.⁴⁰ This should be done only as a last resource.

3.7 Interactions with FOJC Stakeholders

There are numerous other stakeholders that support the FOJC's mission—relationships with these stakeholders are imperative to ensure effective case management and ongoing, transparent communications throughout the process. FOJCs are encouraged to conduct regular site visits, develop and follow protocols for communication and information sharing, and to quickly and effectively resolve any issues that arise.

3.8 Local ORR Case Workers

Once in ORR custody, each UAC is assigned a case worker who attempts to reunify the UAC with family in the United States (and in home country). FOJCs are reminded to maintain an ongoing and professional relationship with local case workers, particularly because FOJCs may need to contact them for case management purposes. Additionally, case workers may reach out to FOJCs in their AOR for general information regarding UAC in their care.

⁴⁰ 8 U.S.C. 1302 (a), “[i]t shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 1201(b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.” Regulations specify that: “Within 30 days after reaching the age of 14, any alien in the United States not exempt from alien registration under the Act and this chapter must apply for registration and fingerprinting, unless fingerprinting is waived under paragraph (e) of this section, in accordance with applicable form instructions.” 8 CFR 264.1

⁴¹ James M. Chaparro, *Sharing Information with the Department of Health and Human Services Office of Refugee Resettlement, Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal Operations*, November 30, 2010.

FOJCs may disclose all relevant information contained in EARM that may assist the case worker in conducting reunification, making bed space designations, and providing special care to the juvenile if needed.⁴¹ Local case workers may inquire about what happens to a UAC when custody is transferred back to ICE custody and it is appropriate for the FOJC to explain local procedures and what is involved with the transfer.

3.9 Federal Field Specialists

An FFS is the ORR representative assigned to oversee all shelters within a specific region. The FFS will approve all referrals and discharges that require ICE coordination. The FOJC should coordinate site visits (monthly, quarterly, or as needed) for general Q&A with the minors, the FFS, and the shelter. Consistent communication will assist in developing a healthy working relationship and understanding each other's roles and responsibilities. The FFS may be able to assist by providing ORR guidance in special cases. He or she can provide information regarding any issues that arise in ORR facilities within the AOR. The FFS can also serve as a liaison between FOJCs and the rest of shelter staff.



SECTION 4

4 External Relations

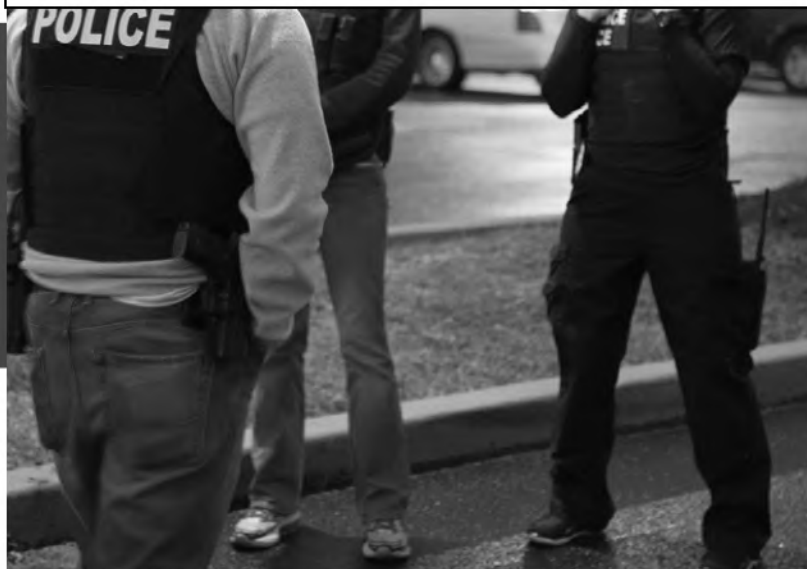
4.1 Non-Governmental Organizations

Occasionally a Non-Governmental Organization (NGO) may ask an FOJC for points of contact within other groups or organizations. For example, an FOJC may be asked to provide the contact information for a consular officer who can interview a juvenile in ORR custody. This type of information sharing is appropriate and builds positive relationships. FOJCs are reminded not to provide any law-enforcement-sensitive information to NGOs.

Establishing relationships within the NGO community allows FOJCs to seek assistance on behalf of minors and families that come into ERO custody. FOJCs should spend time and effort developing these relationships and understanding the role of the NGO. It is highly recommended that FOJCs attend stakeholder meetings with NGOs in order to become familiar with existing programs in their AOR. Attending stakeholder meetings allow FOJCs to raise awareness of ERO's responsibilities and roles in the case management of UAC and families and promote understanding of ICE's mission.

Note: These meetings are not intended as outlets for responding to concerns raised by NGOs.

(b)(6); (b)(7)(C)





SECTION 4

4.2 Consulates

During the case management of a **UAC**, consulates should be contacted at the following times:

- When a **UAC** is encountered;
- When a **UAC** is placed with **ORR**, the case worker will contact the consulate for identity verification.

It is a combined interest for both **ERO** and **ORR** to work closely with the consulates because they can provide name and age verification as well as assistance in furthering the case processing. Working closely with the local consulate offices allows **FOJCs** to obtain travel documents and repatriate **UAC** to their home countries quickly and efficiently.

The **FOJC** should also work with the consulates in their inquiries regarding: missing minors; kidnapping victims; and victims of abuse—keeping in mind the restrictions on sharing information related to asylum, **T** or **U** visa applications, or **VAWA**.



SECTION 5

5 Points of Contact



JFRMU—(b)(7)(E)@ice.dhs.gov

ORR Intakes—(b)(7)(E)@acf.hhs.gov

Transportation Command Center—(b)(7)(E)@
mvminc.com

JFRMU Field Reports—(b)(7)(E)@ice.dhs.gov

JFRMU Intranet—(b)(7)(E)

(b)(7)(E)

ERO Resource Center on Detained Parents—(b)(7)(E)

(b)(7)(E)

UAC Portal—(b)(7)(E)