



*The Door is an ORR subcontracted Legal Services Provider, representing hundreds of minors detained in the greater New York area. Based on this experience, the Door makes the following recommendations to ensure due process protections and a baseline standard of care for minors in ORR custody. We hope that ORR will:*

### **Due Process for Detained Minors in Removal Proceedings**

Ensure due process for detained minors by advocating wherever possible for the adherence to regulations and systems that protect the right to fair hearings for children in ORR custody.

- Seek to ensure ICE abides by regulations that require the agency to wait 60 days before filing the Notice to Appear with the Immigration Court in cases of detained minors.
- Decline to institute the use of Video Teleconferencing as a substitute for in person immigration court hearings for detained minors.

### **COVID-19 Guidelines and Transparency**

Institute universal guidelines to protect the health and safety of minors in ORR care and ensure their access to counsel during the global COVID-19 pandemic.

- Issue national COVID-19 guidelines for all UACs in ORR shelters, not just “newly arrived” UACs.
- Develop meaningful oversight and accountability processes for ORR and ORR-subcontracted staff where minors in custody contract COVID-19 and where facility cannot demonstrate full compliance with state, CDC and ORR guidelines.
- Revise ORR Guide to require greater transparency and information sharing with legal representatives on COVID-19 policies, precautions, field guidance, and spread in ORR facilities with minors’ consent.
- Mandate the expedited release of minors with preexisting conditions predisposing them to greater risk or consequences of COVID-19.

### **Systemic ORR Reform**

Reform internal practices, interagency and subcontracting protocol to align with the ORR duty of care to children in ORR custody.

- End all ORR information sharing with ICE on individual and categorical bases. In particular, clinician notes should not be shared with ICE.
- Cease the prospective centralization of the sponsorship approval process to one national contractor without significant child welfare expertise.
- Detained minors who turn 18 years old should not be transferred to ICE custody except as a matter of last resort. ORR facilities should be required to evaluate all alternative placements to transfer to ICE detention including transfer to state child welfare and release of detained minors on their own recognizance.

- Issue regional directives to avoid age-out transfers to ICE in areas where ERO field offices transfer age-outs to ICE as a matter of course or at a higher-than-average rate accountable.
- Cease the transfer of minors from local child welfare and law enforcement to ORR.

### **Human Rights Abuses in ORR Custody**

Improve oversight of ORR subcontracted facilities to eliminate unnecessarily prolonged detention, inappropriate use of psychotropic medication, psychiatric hospitalization and other abuses. [See 2020 GAO report.](#)

- Prolonged detention needs to be understood and treated as harmful to the well-being of a child. When there is a sponsor available, the presumption should be to expeditiously release unless there is clear and convincing evidence that release would pose a danger to the child’s welfare. In this determination, ORR should weigh the child welfare consequences of prolonged detention against the denial of release to a potential sponsor.
- Sanction the contracts of ORR facilities and sponsorship subcontractors that fail to timely release detained minors in accordance with Flores Regulations.
- Increase accountability, systemization, and oversight of home study and sponsor vetting entities and individuals.
- Cease subcontracting sponsorship-related work to private for-profit entities and military contractors, who have no training in child welfare or trauma-informed care.
- Require ORR facilities to document and report the administration of psychotropic medication to minors in detention.
- Cease the psychiatric hospitalization of detained minors exhibiting signs of depression and suicidal ideation resulting from prolonged detention. Instead, release detained minors in accordance with the Flores Regulations and prioritize holistic mental health care for detained minors.
- Cease the “stepping up” to secure facilities of detained minors exhibiting symptoms of trauma and prolonged detention.
- Ensure the full reproductive rights of detained minors, including their right to privacy, judicial bypasses, and adequate funding for medical care. This is especially important in states without robust legal protections for reproductive rights.

### **Trump Administration Border Policies and ORR**

Protect the rights of UACs impacted by the Trump Administration border policies.

- Establish a monitoring mechanism to ensure all UACs ever processed through MPP are placed in full new Section 240 proceedings and afforded all UAC designated protections.
- Do not execute MPP removal orders for children in ORR custody. At minimum, ORR should decline to be the third-party transport for ICE in executing these orders.
- Direct ORR facilities that the sponsorship process should be followed for all MPP impacted minors.
- Immediately cease delegating the care and “hoteling” of detained minors to private contractors such as MVM, Inc., who have no training in child-centric, culturally competent or trauma informed care.

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