Unaccompanied Children's Arrivals are a Humanitarian Challenge—But a Solvable One

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For much of 2020, U.S. authorities turned away all asylum seekers at the U.S. southern border, including both families arriving together and unaccompanied children. The prior Administration attempted to justify the restrictions by a novel invocation of Title 42 of the United States Code, which grants a weak form of quarantine power to the Centers for Disease Control and Prevention (CDC)—but no enforcement authority. The CDC's own public-health experts opposed the border closure, but were overruled by then-Vice President Mike Pence. For unaccompanied children in particular, the border closure was in contravention of the protections spelled out in the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.

In November, a judge in the Second Circuit restricted the U.S. government's ability to summarily expel unaccompanied children. At that time, the shelters overseen by the Office of Refugee Resettlement (ORR) could operate at only about 60% of their pre-COVID capacity. The capacity limitations came about by both ORR policies on social distancing and safety within individual shelters, as well as systematic decisions that took beds offline across the network, such as a "border staging posture" that meant that unaccompanied children would quarantine in one facility at the border, then be transferred to a second facility elsewhere—only to be quarantined again. A USCRI brief in December noted that ORR had yet to treat COVID-19 as a population-health problem.

The current arrivals of unaccompanied children into the U.S. present a humanitarian challenge. Fundamentally the challenge is one of capacity—the system that cares for unaccompanied children and reunites them with family in the U.S. had neither the bed space available nor the flexibility to easily add space in licensed facilities. But the uptick, in relative numbers, is small. There are currently around 17,000 unaccompanied children in U.S. government custody: 5,156 in the custody of U.S. Customs and Border Protection (CBP) and 11,900 in the custody of ORR. By comparison, the Los Angeles Unified School District educates 600,000 students during the day, every day; U.S. foster-care system serves more than 650,000 children each year. This brief will discuss how ORR can expand capacity so that future surges no longer turn into political crises. The primary means to do so are to move to high-contact case management, so that children are reunited with families faster, and adding beds, so that ORR has more licensed spaces in which to place children in need of care and protection.

Current Border Arrivals

The current growth in arrivals of unaccompanied children presents the third challenge to ORR capacity of the past eight years: 2014, 2019, and now 2021. UC admissions into the U.S. were restricted for much of 2020. Nonetheless, arrivals have been increasing steadily since the imposition of the Title 42

restrictions, and long before the current Administration took office.

MONTH	UC ARRIVALS
April 2020	712
May 2020	966
June 2020	1,603
July 2020	2,426
August 2020	2,998
September 2020	3,756
October 2020	4,690
November 2020	4,476
December 2020	4,853
January 2021	5,694
February 2021	9,297

Many "new" arrivals are the same children who were refused entry for nearly all of last year—a backlog of children who were sent to wait in dangerous conditions in Mexico and had to survive on their own. However, the exact proportions of UCs newly arriving at the border and those who were forced to wait there are unknown and may never be known. As the new arrivals exceeded ORR's licensed capacity—again, reduced in part for COVID-19 precautions—ORR activated or opened both influx care facilities and what it refers to as "Emergency Intake Sites." Influx facilities are unlicensed care facilities that act as surplus shelter space, essentially as supplements to ORR's regular network. "Emergency Intake Sites" are new, and serve as waystations in order to move UCs out of CBP custody and into ORR custody even while ORR lacks shelter space in either regular shelters or influx shelters. All facilities are subject to monitoring by certain observers as part of the *Flores* settlement agreement, which set minimum standards for the care of unaccompanied children in the United States.

INFLUX CARE FACILITES	EMERGENCY INTAKE SITES
Carrizo Springs (Carrizo Springs, TX)	Kay Bailey Hutchinson Convention Center (Dallas, TX)
Carrizo Springs II	Midland, TX
Target Lodge *Pecos* North (Pecos, TX)	San Diego Convention Center (San Diego, CA)

These increased arrivals of unaccompanied children are real. Simultaneously, some in Washington have claimed that there is a general "border surge" or "border crisis." This is incorrect. The apparent uptick in arrivals is measured by apprehensions, which are well within normal seasonal variation: more migrants from Central America tend to leave home right after the winter holidays and before it becomes dangerously hot to travel in the summer, even as unreconciled figures. When the figures from the U.S. government are reconciled, the general increase is in part a statistical artifact: because the U.S. is expelling individuals instead of processing them for deportation, when those same individuals are apprehended again, they are double- and triple-counted in apprehension statistics. Even more, border apprehensions are not and have never been reliable proxies for border entries: it is bad math to say that because the U.S. government caught more people, more people were crossing, and equally bad math to say that if fewer people are caught, deterrence is working and fewer are crossing. In sum, a few more people are crossing than have crossed in recent Februarys; but our annual numbers may be below the peak of undocumented arrivals from the 2000s, and well within our recent "normal."

Solving "Surges"

The use of influx facilities and "Emergency Intake Sites" are the best of a set of bad options for ORR. In addition, ORR has taken several positive steps forward to expedite releases, including streamlining placements for unaccompanied children with recognized parents in the country, treating COVID-19 more holistically in its network, and paying for sponsors' travel to meet their children. ORR ended its agreement with the Department of Homeland Security to share sponsor information. This agreement likely deterred sponsors from coming forward because they feared deportation. Numerous process changes have occurred internal to ORR as well. For all that these changes help children return to family settings more quickly, these have all been reactive responses.

Our best option is to reform the ORR system with the capacity to handle periodic increases in arrivals. The recurring rises in the arrivals of unaccompanied children are indeed challenges to the ORR network. But they need not be, or at least, need not be the same sort of challenges that they have presented in 2014, 2019, and now. The ORR system should be expanded such that it can handle sudden increases in arrivals of unaccompanied children. In part, ORR's current struggles are because its programs for unaccompanied children are not nimble. The protections for children, to make sure that sponsors are who they say they are and will provide a safe and stable home, are difficult to speed up or change—and this has a certain logic to it. Instead of changing these protections for children, or simply skirting them when exigent circumstances arise, ORR should move towards a future where unlicensed influx facilities are no longer necessary and where capacity exists to care all unaccompanied children even when foreseeable surges occur.

First, ORR is designed for reunification as its primary purpose, because children should be in families. Getting kids out of ORR faster—much faster—will free system capacity and can be accomplished without compromising child-safety safeguards. In the ORR system, case managers work to assess the viability of sponsors and for informing potential sponsors of how reunification is progressing. The closer the contact between case managers and sponsors, the faster reunification proceeds; improved case management is the single most important step that ORR can take to expedite reunification. To do this, ORR must invest in a high-contact model for sponsor support, vetting, and reunification. The high-contact model also aligns with best practices in trauma-responsive care both in ensuring that children and parents are connected, as well as providing reliable interactions with an adult who cares about a child's well-being—both a capacity improvement and an improvement in the quality of care that unaccompanied children receive.

Second, increasing the ORR network's number of licensed beds must be part of the solution. Former ORR Director Jonathan Hayes promoted [the growth of ORR capacity](#) to make 20,000 beds available by the end of 2020. Some policymakers, worried about both mismanagement and quality of care, and were reluctant to appropriate funding. If we are to avoid unlicensed shelters in the future, and avoid the challenges posed by future surges, more beds in licensed facilities that provide a high standard of care for unaccompanied children will be necessary. Beds and speed of release act in tandem to grow or diminish overall capacity, such that more intensive case management can mean fewer beds are necessary and vice versa. In its most recent [Congressional Budget Justification](#), ORR's parent agency proposed funding around 16,000 beds for unaccompanied children. This figure, proposed before the current increase in arrivals, may be too low, depending on appetite for funding case-management services.

Third, spaces for more marginal improvements exist within ORR practices. While case management and shelter beds are the two main drivers of ORR network capacity, these other areas should not be ignored. More efficient processing at the border can reduce the number of children entering ORR custody. Nearly all unaccompanied children enter U.S. government custody by way of CBP. A notable percentage of them, perhaps 10-15%, arrive with caregivers other than their parents. A "colocation" model, in which ORR personnel are on site at CBP facilities to evaluate the suitability of accompanying relatives as sponsors, coupled with use of parole for sponsors, could relieve burdens on the system.

Looking Longer Term

The Administration's clearest approach to the increase in arrivals has been to [address the root causes of unsafe migrations](#) from countries like El Salvador, Guatemala, and Honduras. Children leave their homes and travel 2000 miles to the U.S. because their homes are dangerous, impoverished, and

unsafe. But the problems in Central America are deep rooted, and even the most effective interventions are not likely to decrease overall emigration until the medium- or long-term. The United States should still invest in these approaches, with clear eyes as to both their scope and the length of time needed.

The solution that some have proposed—returning to Trump Administration border policies—solves the problem of increased arrivals by denying children protection. The U.S. should not be so hard-hearted. To do so would simply deliver children back into the danger that they were fleeing. Unaccompanied children do not just disappear when it is convenient not to see them. No child should be expendable. Solving surges means building a better ORR over the next few years. A capacity issue is serious. But a capacity issue in ORR care also has a clear solution: more capacity. The problem is humanitarian, and tractable.