



CHAPTER EIGHT: RECOMMENDATIONS FOR THE FUTURE OF THE UNACCOMPANIED CHILDREN'S PROGRAM

"A mi me gustaria luchar por mis sueños y no permitiré que nadie apague la luz que me mantiene firme para."

"I would like to fight for my dreams, and I will not allow anyone to turn off the light that keeps me going." These are the words of a 13-year-old unaccompanied child at a shelter funded by the Office of Refugee Resettlement (ORR) at the U.S. Department of Health and Human Services (HHS). Many unaccompanied children have fled their home countries due to human rights abuses, such as forced marriages, child labor, military recruitment, and armed conflicts. Others have come to the United States to reunite with their families. And still others have left behind poverty in search of a better future.

As discussed in the retrospective, before the early 2000s, children were apprehended and detained by the former Immigration and Naturalization Service (INS). The Homeland Security Act of 2002 (HSA) transferred the care of this vulnerable group of children to ORR in HHS. But the HSA provided few details on how children should be treated in care, the requirements for determining whether a child should be released from custody to a parent or sponsor, or the need for legal services and follow-up assistance after release. The transfer of responsibility for the children also left gaps and interagency challenges between the Department of Homeland Security (DHS) and ORR.

Over the years, the agencies, Congress, and nonprofit and advocacy organizations have worked to make changes as the program has grown tremendously. While many improvements have been implemented for the Unaccompanied Children's Program, there are still many improvements to be made to meet the critical needs of the moment and to anticipate the needs for the program's future. In this chapter, the U.S. Committee for Refugees and Immigrants and The Children's Village offer recommendations for the future of the Unaccompanied Children's Program in the United States. Our recommendations are based on the direct care we provide for children through shelters, home studies and post-release services, trafficking assistance, legal representation, and repatriation in El Salvador and Honduras.

Recommendation 1:

Make post-release services for all unaccompanied children a legal requirement.

Congress has only specified that certain children receive home studies and post-release services. To ensure the safety of all unaccompanied children after release, we recommend that Congress clarify in law and provide appropriations for ORR's responsibility for the children's ongoing safety after release and require post-release services for all unaccompanied children.



This would ensure that the agencies and organizations tasked with providing for the safety and well-being of UC after release have the necessary tools and support to carry out their mission. Post-release services would serve as a safety net to ensure that releases are safe and remain safe.

The most realistic way to ensure safe releases is to follow up. If post-release services were provided for all children, case managers would go into all UC homes— they would be able to identify child welfare concerns and problems with placements and, if necessary, could remove children from unsafe situations. The services also would connect all children and their families to resources in their communities, as opposed to the low percentage connected under the current system. Currently, post-release services may change per administration. To ensure continued safety for unaccompanied children, Congress should expand the program through legislation.

Recommendation 2:
Require ORR to appoint child advocates for the most vulnerable children.

Child advocates are underutilized and not clearly provided for under current law. We recommend that ORR be required to appoint child advocates for the most vulnerable children, specifically those expected to be in custody longer than 90 days and children who meet the current requirements for a home study.

As with post-release services, the key to providing child advocates for certain children and mandating specific responsibilities for those advocates is that it must be written in the law, and Congress must provide funding.

Recommendation 3:
Allocate funding so all unaccompanied children released from ORR custody have attorneys.

Under the Trafficking Victims Protection Reauthorization Act of 2008, the Department of Health and Human Services (HHS) is required to “ensure to the greatest extent practicable” that all unaccompanied children “have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking.” The expansion of legal services is needed to successfully end and prevent the labor exploitation of unaccompanied children, as well as other exploitative practices. It should also be noted that some of these children are old enough to work in a safe workplace. Work authorization should be provided to those who want or need to work and are old enough to do so in a safe workplace. Without work authorization, unaccompanied children are left vulnerable to exploitation while experiencing immense financial pressures. Lack of access to proper representation heightens the risk that children will not receive protections they are afforded under the law.



Recommendation 4:

Expand the Unaccompanied Refugee Minors program.

The Refugee Act of 1980 provided child welfare services for refugee children. Among the services created was the Unaccompanied Refugee Minors (URM) program, which allowed refugee children unaccompanied by a parent or other close relative to receive services through the states' foster care programs.

We recommend an expansion of the URM program to create additional placements and more appropriate services for unaccompanied children without family in the United States who receive immigration status making them eligible for URM care. Their unique circumstances make them difficult to place in regular URM programs. Their lack of family in the United States puts them at risk for remaining long-term in ORR custody. Although ORR has foster care programs for unaccompanied children it would be more beneficial for the children to enter a URM program specifically designed for their special behavioral and developmental needs, and it would allow them to exit federal custody, transfer to a long-term placement, and benefit from the state-funded programs available through foster care.

Recommendation 5:

Develop new and creative support programs for unaccompanied children after release.

While many unaccompanied children receive referrals to community resources, such as education, legal services, and medical and mental health, new and more creative programming could better reach these children in their new environment. We recommend a mentoring program to help unaccompanied children navigate their unique situation in the United States. Unaccompanied children post-release could be paired with a mentor who is a former unaccompanied child to help guide and advise them. This connection would allow the unaccompanied child to feel understood by someone with first-hand lived experience, have a trusted contact who understands their situation, and foster a connection with a person who can serve as an example of the possibilities for them in the United States.

Recommendation 6:

Ratify the United Nations Convention on the Rights of the Child (UNCRC).

The UNCRC is the most widely adopted human rights pact in the world, signed and ratified by every country recognized by the United Nations, except the United States. The treaty was the first to establish international standards on the rights of children. If the United States wants to continue to promote child rights internationally, and affirm the rights of children domestically, the country must ratify the UNCRC. The treaty has been signed and ratified by 196 countries, making it the most ratified treaty in the world.



Many of our state laws continue to contravene the UNCRC, violate the rights of children, and harm their mental and physical wellbeing. While ratification of the treaty is not necessary to amend these state laws, ratification will put pressure on states that are out of compliance with the treaty to change their laws that harm children and provide a guide to federal and state legislatures on the best practices to protect child rights.

Furthermore, its ratification would provide the United States with enhanced legitimacy internationally when advocating for children's rights. Currently, other countries can point to our failure to ratify the UNCRC when U.S. representatives admonish them for violating the rights of children. The United States could finally ratify the Convention and demonstrate its commitment to the protection of children's rights.

Conclusion

It's been 20 years since the Homeland Security Act of 2002 transferred the Unaccompanied Children's Program to the Office of Refugee Resettlement. Over the years, the involved federal agencies, Congress, and nonprofit and advocacy organizations have worked to make changes as the program continued to have tremendous growth. Although the implementation of the changes was often slow, it was made, and many of those changes have resulted in a better system of care for unaccompanied children. USCRI and The Children's Village will continue to highlight the experiences of the past, using them to inform our current work with unaccompanied children, and building on them to make recommendations for program improvements so that all children can move through their journeys in safety, with their rights protected, and with hope for their futures.