



**THE NEED FOR STATE REGULATION
AND OVERSIGHT OF FACILITIES
HOUSING MINORS IN TEXAS**

November 2023

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INTRODUCTION & OVERVIEW

Children are among the most vulnerable people in the world, in the United States and in Texas. There are over 17,400 children in foster care in Texas in fiscal 2023, according to the most recent data reported by the Texas Department of Family and Protective Services (DFPS).¹ Over the same time period, there were over 16,300 unaccompanied alien children (UAC) released to sponsors in Texas, according to U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) data.²

Federal law defines a UAC as a minor with “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 for whom no parent or legal guardian in the United States is available to provide care and physical custody.” (6 U.S.C. § 279(g)(2)).

Both groups of children, UACs and Texas foster children, are often housed in facilities run by the same non-governmental organizations (NGOs), some of which have been the subject of investigations and audits stemming from reports of alleged neglect and abuse. As with American children, abuse of UAC often begins in the home.

For varying reasons, UAC family members pay, or pledge to pay through modern-day indentured servitude, transnational criminal organizations to smuggle their children across country lines, law enforcement officials have explained to the Alliance. Many of the UACs are then subjected to abuse, assault, and death on the journey by their smugglers, or others, as they make their way north to the U.S., as human rights organizations have documented.

The International Organization for Migration found that roughly 41% of child international trafficking cases are organized and allowed by a child's family member or caretaker.³ Many of these children have been smuggled into Texas through Mexico.

Once UACs arrive in the U.S., after they are processed by U.S. Customs and Border Protection officials, they are transferred to, and under the custody of, ORR. ORR’s stated policy is to “promptly place an unaccompanied child in the least restrictive setting that is in the best interests of the child, taking into consideration danger to self, danger to the community, and risk of flight; ... the unique nature of each child’s situation and incorporates child welfare principles when making placement, clinical, case management, and release decisions that are in the best interest of the child.”⁴

Sadly, the abuse of some of the UACs did not end on their journey to the United States but continued after they were under the care of ORR officials and ORR-contracted non-governmental organizations, according to multiple reports.

A report published by a Florida Grand Jury found that ORR placed “more than two-thirds of its UAC with a person other than a parent.”⁵ ORR’s oversight of unaccompanied children's release and transport resulted

¹ “Key Metrics Dashboard,” Fiscal Year 2023, Texas Department of Family and Protective Services.

https://www.dfps.texas.gov/About_DFPS/Monthly_Data/Key_Metrics_Monthly_Dashboard.pdf, last accessed Nov. 9, 2023. See also, “Who Cares: A National County of Foster Homes and Families,” Foster Care Capacity, a project from The Imprint, <https://www.fostercarecapacity.com/states/texas>, last accessed Nov. 9, 2023.

² “Unaccompanied Children Released to Sponsors by State,” U.S. Department of Health and Human Services Office of Refugee Resettlement, Nov. 8, 2023, <https://www.acf.hhs.gov/orr/grant-funding/unaccompanied-children-released-sponsors-state>, last accessed Nov. 9, 2023.

³ “Navigating the Unique Complexities in Familial Trafficking,” Fact Sheet, U.S. Department of State, July 1, 2021, <https://www.state.gov/navigating-the-unique-complexities-in-familial-trafficking/>, last accessed Nov. 9, 2023.

⁴ “Unaccompanied Children,” U.S. Department of Health & Human Services Office of Refugee Resettlement, July 19, 2022, <https://www.acf.hhs.gov/orr/programs/uc>, last accessed Nov. 9, 2023.

⁵ Fourth Presentation of the Twenty-First Statewide Grand Jury, Case No.: SC22-796, Supreme Court of Florida, October 20, 2023, p. 5, <https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/651d8f68-f322-4cd0-831f-74dc9b0d77a8/docketentrydocuments/ca36bb04-8b44-4aee-a21d-f5ab85a170e6>, last accessed Nov. 9, 2023.

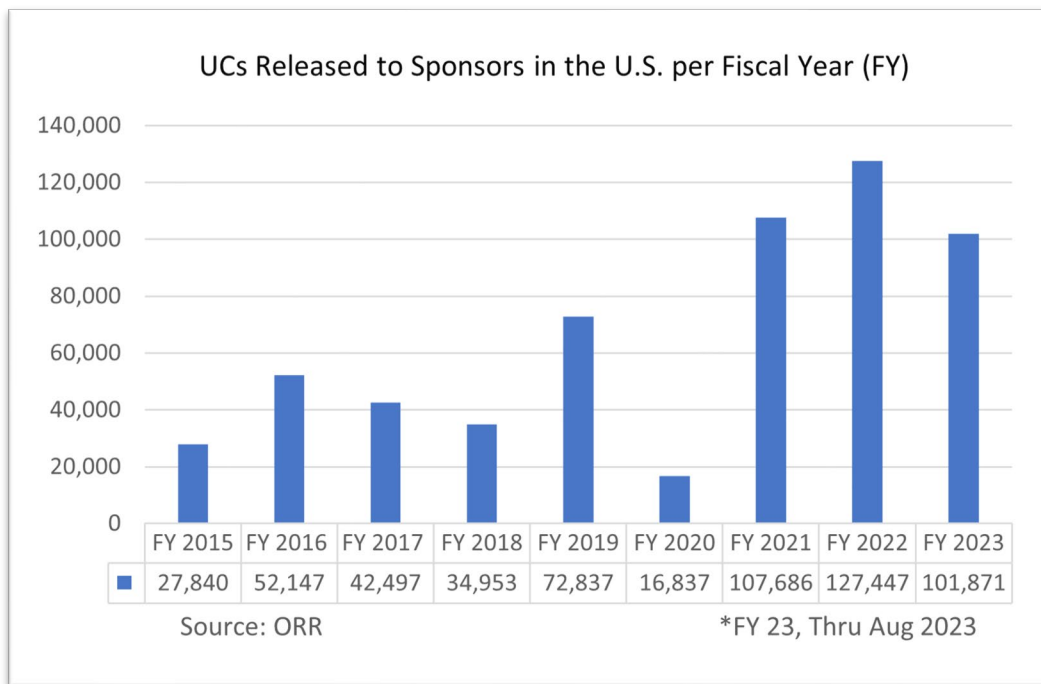
in “facilitating the forced migration, sale, and abuse of foreign children,” the grand jury found. “This process exposes children to horrifying health conditions, constant criminal threat, labor and sex trafficking, robbery, rape and other experiences not done justice by mere words.”⁶

The grand jury found that UACs were released to poorly vetted sponsors, or unvetted sponsors, including gang members, total strangers, and transnational criminal organization affiliates living in the U.S. who allegedly abused and exploited them.

Since 2014, when the first UAC surge occurred and U.S. Customs and Border Protection began publicly reporting UAC apprehension data, HHS-contracted facilities funded with tax-payer dollars have been plagued by allegations of physical abuse, poor living conditions, sexual abuse, and death.

Since then, the number of UACs crossing the southwest border continues to increase at unprecedented levels. From fiscal year 2015 to fiscal year 2023 (through August 2023), more than 584,000 UACs were released to sponsors in the United States.⁷ Among them, over 82,000 were released to sponsors in Texas.

In fiscal 2023, over 113,000 UACs were released to sponsors in the U.S.; 16,394 were released in Texas, the most of any state.



Consequently, Texas also has greatest number of UAC temporary housing facilities in the United States of at least over 50, according to the most recent publicly available data. The next largest number is in California of 14, according to the data. No other state is grappling with the magnitude of UACs being released to these types of facilities than Texas.

⁶ Bethany Blankley, “Florida Grand Jury Report released over investigation into unaccompanied minors released into U.S. by Biden,” The Center Square, April 3, 2023, last accessed Nov. 9, 2023.

⁷ “Unaccompanied Children Released to Sponsors by State,” *ibid.*

Although much attention has rightly focused on ORR deficiencies to properly vet sponsors, one serious area has not received the level of scrutiny it deserves: UAC temporary housing facilities. Reports of serious allegations ranging from abuse, neglect, sexual assault, and even death, at Texas facilities and nationwide, for over a decade, remain ineffectively addressed.

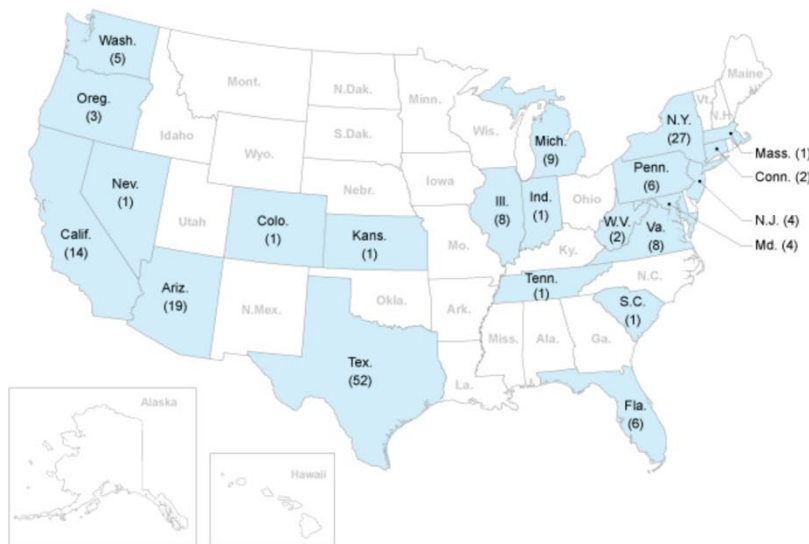
ONGOING DEFICIENCIES

In 2020, the U.S. Government Accountability Office issued a report stating that actions were needed to improve grant application reviews and oversight of care facilities housing UACs. While HHS and ORR have claimed that state licensing or minimum standards are upheld, years’ worth of evidence, including over the last three fiscal years prove otherwise, according to the report.

The GAO also found that ORR has a history of not adhering to its own standards and regulations such as compliance audits.⁸ Over the last three fiscal years, emergency influx and permanent facilities opened with little-to-no communication with local or state authorities, and with little regard to possible negative impacts on communities despite HHS/ORR claims to the contrary, the GAO and other reports have found.

The GAO also published a map identifying where the ORR-run facilities are located. Texas, by far, had the greatest number of facilities (52) in 2020, according to the GAO report.

Number of facilities in each state that both received grants from the Department of Health and Human Services (HHS) and had unaccompanied children in care as of July 2020

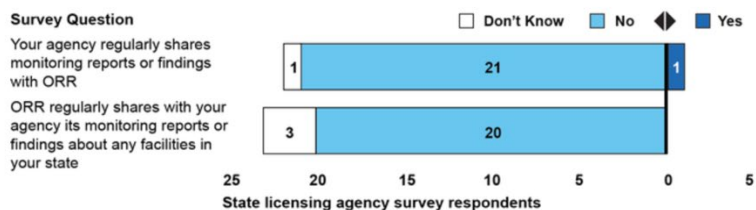


Sources: GAO analysis of HHS Office of Refugee Resettlement data; National Atlas (base map). | GAO-20-609

The GAO also found that the overwhelming majority of facilities surveyed (by a margin of 40-1), did not regularly share information about their operations with the federal government or with the state governments in the states they operate in.

⁸ “Unaccompanied Children: Actions Needed to Improve Grant Application Reviews and Oversight of Care Facilities,” U.S. Government Accountability Office, Sept. 15, 2020, <https://www.gao.gov/products/gao-20-609>, last accessed Nov. 9, 2023.

Key Survey Responses on Information-Sharing with the Office of Refugee Resettlement (ORR) by the 23 State Agencies That Licensed ORR-Funded Facilities in Fall 2019



Source: GAO survey of state agencies that license ORR-funded providers, conducted October 2019 – January 2020. | GAO-20-609

In May 2023, an HHS Office of Inspector General (OIG) report identified extraordinary deficiencies in ORR’s inability to follow its own guidelines. As a result, the report found that ORR placed vulnerable UACs, staff, and local communities nationwide in danger by using “unreviewable discretion,” thereby waiving criminal background checks from being conducted.⁹

The OIG also found that many ORR Emergency Intake Sites (EISs) and Influx Care Facilities (ICFs) were not licensed by states, have no Child Abuse and Neglect checks and operate with the use of waivers from safety measures required by the Flores Settlement Agreement.¹⁰ Despite federal requirements prohibiting HHS/ORR facilities from hiring individuals without in-depth criminal background checks including fingerprints and sex offender registry checks, waivers were issued to exempt some facilities from implementing such safeguards during an emergency “influx” of children. HHS is currently attempting to make a permanent rule change to broaden the use of waivers across an unknown number of contracted facilities thereby potentially endangering more children.

The OIG report identified numerous deficiencies that put vulnerable UACs, ORR and contract staff and the communities where these facilities operate, at tremendous risk.¹¹ It found:

- **“ORR did not require the transportation services contractor we reviewed to conduct background checks on employees as required by ORR minimum standards;”**
- **“ORR was not consistent with issuing waivers for FBI fingerprint checks and CA/N checks for employees at EISs;”**
- **“Public records checks used by EISs may not have been reliable;”**
- **“A few EISs did not ensure secure facility access.”**

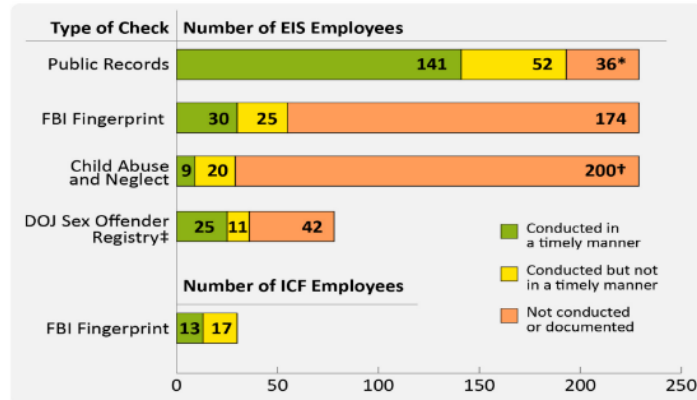
⁹ Christi Grimm, “The Office of Refugee Resettlement Needs To Improve Its Practices for Background Checks During Influxes,” Office of Inspector General, U.S. Department of Health and Human Services, May 2023, p. 6, <https://oig.hhs.gov/oas/reports/region6/62107003.pdf>, last accessed Nov. 9, 2023.

¹⁰ The settlement agreement stems from a 1993 U.S. Supreme Court ruling that held UACs do not have a constitutional right to be released to anyone other than their parent or close relative. In 1997, the agreement was created to establish standards for detaining UACs.

¹¹ Grimm, *Ibid.* p.11.

From the HHS OIG report:

Figure: Summary of Compliance With Background Check Requirements



* For 6 of the 36 employees, an FBI fingerprint check was conducted prior to hire.
 † For 51 of the 200 employees, ORR had waived the Child Abuse and Neglect (CA/N) check requirement.
 ‡ DOJ sex offender registry checks were only required for employees at the EISs for which ORR issued a waiver (78 employees).
 Note: ICFs were not required to conduct public records checks, CA/N checks, or DOJ sex offender registry checks.

The report found many of the same deficiencies in EIS and ICF locations that were not granted waivers allowing for temporary exemptions from ORR’s standards.

Waivers do not exempt facilities from performing background checks of potential contractors or employees to ensure they are not registered sex offenders, meaning, they must perform this background check. However, of the facilities audited by the OIG, three did not have documentation of registered sex offender-required checks on more than half of the 78 sampled employees who had direct contact with children. Additionally, the OIG investigation found that ORR did not require background checks on transportation services contractors who also had direct contact with UACs.

One employee investigated in Texas was found to have a “criminal record that included an offense that would have required a risk assessment in order to evaluate the employee's suitability for employment at a childcare operation in Texas,” the report found. It also noted, “We were unable to obtain the details of the offense. However, if the offense was committed against a child, the employee would have been prohibited from being present in a childcare operation in Texas while children are receiving care.”

The OIG concluded, **“Background checks on employees who have direct contact with children are critical to ensure the safety of vulnerable children in ORR-funded residential and emergency care provider facilities. ORR issued waivers based on previously experienced challenges in obtaining background checks for employees at facilities that are not State-licensed and did not confirm States’ inability or unwillingness to conduct the required background checks. As such, ORR may have unnecessarily issued waivers for critical background checks, potentially placing the safety of children at risk.”**¹² (Emphasis added.)

¹² Grimm, Ibid, p.11.

In the 15 facilities in three states the OIG investigated, **10 were in Texas**. Two facilities evaluated, in Carrizo Springs (previously operated by Baptist Children’s Family Services) and Pecos (operated by Endeavors), are currently active.¹³

The OIG report found that one of the facilities had documented failure to adequately and timely perform background checks of employees with direct care of unaccompanied minors.¹⁴ One location was previously run by BCFS¹⁵ which has an extensive history of documented allegations of abuse, including sexual misconduct.¹⁶ One of the Carrizo Springs facilities has now reopened its doors and is currently actively housing UACs, according to ORR.

ALLEGATIONS OF ABUSE

Recent data spanning nearly a decade shows allegations of abuse, including of sexual abuse of UACs, were reported to have occurred at HHS-contracted NGO facilities.

According to a report by Axios, from fiscal 2015 to fiscal 2018, there were over 4,500 allegations of sexual abuse reported to have occurred at ORR-contracted facilities and over 1,300 allegations reported to the U.S. Department of Justice (DOJ). They include:¹⁷

- FY 2015: ORR – 1,000; DOJ – 279
- FY 2016: ORR – 1,226; DOJ – 348
- FY 2017: ORR – 1,069; DOJ – 264
- FY 2018: ORR – 1,261; DOJ – 412
- **Total: ORR – 4,556; DOJ – 1,303**

According to a Judicial Watch report, from January 21, 2021, to February 26, 2021, there were 33 ORR sexual abuse allegations reported. Among them, 18 were reported in Texas, including: Baptist Children’s Family Services (2), SWK (10), Sunny Glen in Raymondville (5), and one at Children’s First in Houston.

According to an Axios report,¹⁸ in fiscal 2017 and fiscal 2018, Significant Incident Reports included allegations of sexual abuse, including 49 reported to the DOJ in fiscal 2017.¹⁹ Among them, 26 were from facilities located in Texas, including: Emergency Intake Sites, the locations of which have since closed (6), Catholic Charities (1), SWK (15), Fort Bliss (1) and Baptist Children’s Family Services (3).

There were 49 sexual abuse allegations reported to the DOJ in fiscal 2018. Among them, 25 were from facilities located in Texas,²⁰ including: VisionQuest (1), IES (2), Baptist Children’s Family Services (5) and SWK (15).

¹³ “ORR Influx Care Facilities for Unaccompanied Children Fact Sheet,” Administration for Children & Families, ORR press release, Nov. 9, 2023, <https://www.acf.hhs.gov/sites/default/files/documents/orr/icf-uc-fact-sheet.pdf>, last accessed Nov. 9, 2023.

¹⁴ Grimm, *Ibid.* p. 28.

¹⁵ James Barragan, “Newly minted child detention center in rural Texas draws about 100 at first protest,” *The Dallas Morning News*, July 3, 2019, <https://www.dallasnews.com/news/immigration/2019/07/03/newly-minted-child-detention-center-in-rural-texas-draws-about-100-at-first-protest/>, last accessed Nov. 9, 2023.

¹⁶ Stef Kight, Caitlin Owens, Andrew Witherspoon, “The scandal-ridden industry of migrant child shelters,” *Axios*, March 5, 2019, <https://www.axios.com/2019/03/05/immigration-child-shelters-sexual-abuse>, last accessed Nov. 9, 2023.

¹⁷ Judicial Watch, FOIA, Sept. 22, 2021 “Allegations of sexual abuse reported to DOJ by type of incident, FY 2015, NadUAC-00124, HHS, <https://subscriber.politicopro.com/f?id=00000169-2b42-dd0f-affb-ef7630810000>, last accessed Nov. 9, 2023.

¹⁸ Caitlin Owens, Stef Kight, Harry Stevens, “Thousands of migrant youth allegedly suffered sexual abuse in U.S. custody,” *Axios*, February 26, 2019, <https://www.axios.com/2019/02/26/immigration-unaccompanied-minors-sexual-assault>, last accessed Nov. 9, 2023.

¹⁹ NadUAC1213 Sexual Assaults by Date of Incident FY 2015-FY 2018, HHS, <https://www.documentcloud.org/documents/5751021-NadUAC1213-Sexual-Assaults-by-Date-of-Incident.html>, last accessed Nov. 9, 2023.

²⁰ *Ibid.*

Most of these facilities receives state taxpayer funding. DFPS has active client service contracts with numerous NGOs, including: BCFS Health and Human Services (over \$15.8 million), El Paso Human Services Inc (over \$3.3 million), Family Endeavors Inc (Endeavors) (nearly \$1.5 million), Lutheran Social Services (over \$7.3 million), New Hope Youth Center (over \$5 million), SWK (over \$5.2 million), United Way organizations (over \$56 million.)²¹

CONCERNS RAISED PLACE A SPOTLIGHT ON FACILITIES IN TEXAS

Alliance for a Safe Texas has met with lawmakers and stakeholders who have expressed concerns about several facilities, including Southwest Key (SWK) and VisionQuest.

SWK is one of the largest and longest running NGOs operating in Texas and nationwide. For years, allegations of sexual abuse²² and misconduct at SWK facilities have been reported in many states, including in Texas.²³ Additionally, as with many other HHS-NGO-contracted facilities, there is a history of children running away from SWK facilities.²⁴

More recently, SWK was one of several NGOs with reported failures to properly conduct background checks of employees, including individuals with criminal histories, such as possession of child pornography.²⁵ Other reports relate to allegations of unsafe and poor conditions for both children and staff and failure to properly train staff.²⁶

VisionQuest, a for-profit organization, founded in 1973, claims to be a “trauma-informed sanctuary certified organization.” It operates in four states, Arizona, Delaware, Maryland, Pennsylvania and Texas. Among the services it provides includes operating alternative juvenile facilities²⁷ to care for UACs, which have not functioned without well-documented complications and concerns.²⁸ They include allegations and investigations related to physical abuse²⁹ and psychological abuse; multiple minor deaths have been reported in Arizona, California, New Mexico, Texas and in Philadelphia, Pennsylvania.³⁰

VisionQuest has attempted to open facilities in multiple locations in Texas. Some attempts failed, including in Waco, San Antonio, and Universal City.³¹ Despite concerns by local residents and officials, a new VisionQuest facility opened in Wallis, Texas, in Austin County, in late 2022.³²

²¹ “Active Administrative Contracts Exceeding \$100,000” Texas Department of Family and Protective Services, Sept. 12, 2023, https://www.dfps.texas.gov/Doing_Business/Active_Contracts/administrative.asp, last accessed Nov. 9, 2023.

²² Kight, Owens, Witherspoon, *ibid*.

²³ Michael Grabell and Topher Sanders, “Immigrant Youth Shelters: ‘If you’re a predator, it’s a gold mine,’” ProPublica, July 27, 2018, <https://www.propublica.org/article/immigrant-youth-shelters-sexual-abuse-fights-missing-children>, last accessed Nov. 9, 2023.

²⁴ Kavitha Surana and Robert Faturechi, “Here’s What It’s Like to Work at a Shelter for Immigrant Kids,” ProPublica, June 27, 2018, <https://www.propublica.org/article/southwest-key-casa-padre-staff-immigrant-kids>, last accessed Nov. 9, 2023.

²⁵ Leif Reigstad, “Southwest Key Hired Child Case Manager Previously Arrested for Child Pornography,” Texas Monthly, June 20, 2018, <https://www.texasmonthly.com/news-politics/southwest-key-hired-child-case-manager-previously-arrested-child-pornography/>, last accessed Nov. 9, 2023.

²⁶ Surana, Faturechi, *Ibid*.

²⁷ “Visionquest not a safe space for youth,” Juvenile Law Center, March 25, 2019, <https://jlc.org/news/visionquest-not-safe-space-youth>, last accessed Nov. 9, 2023.

²⁸ Peter Greenwood, Susan Turner, “The VisionQuest Program: An Evaluation,” RAND Corporation, November 1987, <https://www.ojp.gov/pdffiles1/Digitization/109581NCJRS.pdf>, last accessed Nov. 9, 2023.

²⁹ Zoie Matthew, “A For-Profit Firm Accused of Child Abuse Wants to Open a Center for Migrant Youth in Los Angeles,” Los Angeles Magazine, Jan. 9, 2020, <https://lamag.com/featured/visionquest-arleta-detention-center>, last accessed Nov. 9, 2023.

³⁰ Michael Daly, “VisionQuest, For-Profit Firm Tapped to House Migrant Kids in Philadelphia, Has Sordid History,” Daily Beast, July 1, 2019, <https://www.thedailybeast.com/visionquest-for-profit-firm-tapped-to-house-migrant-kids-in-philadelphia-has-sordid-history>, last accessed Nov. 9, 2023.

³¹ Silvia Foster-Frau, “Government contractor still trying to open migrant child facility in Texas,” San Antonio Express-News, February 19, 2020, <https://www.expressnews.com/news/local/article/Government-contractor-still-trying-to-open-15069072.php>, last accessed Nov. 9, 2023.

³² “Citizens of Wallis Concerned over Opening of Immigrant Housing Facility,” Austin County News Online, October 25, 2022, <https://austincountynews.com/citizens-of-wallis-concerned-over-opening-of-immigrant-housing-facility/>, last accessed Nov. 9, 2023.

In Wallis, city officials attempted to pass extensive ordinances hoping to ensure that future facilities would be within city limits due to concerns over lack of resources and the ability to respond to emergency situations. But they were mocked by federal officials from HHS and VisionQuest, officials have said.

“The federal government has thumbed their noses at us, the local governments, on this issue,” Austin County Judge Tim Lapham told a Texas Senate committee earlier this year.

He did so after Sen. Louis Kolkhorst, R-Brenham, filed SB 572 to address local government concerns and provide greater state oversight mechanisms and transparency. Rep. Stan Kitzman, R-Bellville, carried the bill in the House, which received bipartisan support in both chambers. It passed the Senate but didn’t make it to a floor vote in the House during the 88th regular legislative session this year.

In April, at a Senate Committee on Local Government hearing, Sen. Kolkhorst stressed that local officials, her staff, and staff members of U.S. Rep. Michael McCaul, made numerous requests for information about the facility from HHS and VisionQuest and received no response.

In response, state Sen. Royce West, D-Dallas, said, “You’re saying McCaul tried get a copy of the contract but couldn’t get a copy of the contract? Is the contract between the federal government and this facility and he couldn’t get a copy of it?” To which Senator Kolkhorst responded, “Crazy right?” Senator West nodded in agreement.

State Sen. Sarah Eckhardt, D-Austin, also expressed concerns, stating, “It’s clear that there is a problem of inadequate oversight and inadequate resources at the local level. I’m curious, why not advocate for state regulation regarding the placement of congregant treatment facilities, irrespective of who is inside of them because of the lack of resources. I note a third of Texas counties have no hospital.”

Judge Lapham also testified, “We don’t know who’s in this facility. We don’t know. There’s been no communication with the local government, city, or the county on this [facility]. The federal government is placing unauthorized children in facilities throughout our state, unknown to local governments.

“Austin County has a small rural hospital to provide immediate medical care 24/7. The holding center in Austin County is located at the opposite end of the county. In a small town with no doctor’s office, with no medical care, not even a pharmacy. Anytime a child at this facility needs more than a band aid, one of our ambulances has to transport. That leaves our residents without that emergency service.”

THE IMPACT ON TEXAS COMMUNITIES

State and local lawmakers and residents have raised concerns about how HHS-contracted facilities impact local communities. First, HHS-contracted facilities can create potentially dangerous situations due to runaways. Runaways are a consistent issue for all facilities housing UACs due to a number of factors, including policies that prohibit NGOs from using any form of “restraint.” If a minor attempts to leave, or runs away from a facility, employees are prohibited from stopping them according to ORR policies. HHS also does not require NGO operators to contact local law enforcement in runaway situations, and often discourages contractors from contacting law enforcement.

In fact, ORR’s policy, according to federal statute §410.1304(b), actively discourages care providers and contractors of facilities from contacting law enforcement regarding escalating issues. As a result, UACs may find themselves in dangerous situations, or create a dangerous situation for other UACs, or residents of the communities where the facilities are located.

As is common with children in the foster care system, UAC runaways often find themselves in situations of exploitation by individuals with sinister intentions. Additionally, this places local populations at greater risk because the identity of many of the UACs is often unverifiable. Reports have also revealed that adults have posed as UACs to illegally enter the country for nefarious purposes.³³ Furthermore, when UACs age out (turn 18) they are released into local communities with no resources.

Second, HHS-contracted facilities can drain limited local government resources. According to documents Alliance for a Safe Texas obtained from a public information request, an Endeavors facility in Pecos was “a drain on local resources.” Officials pointed to Pecos’ experience when expressing concern about an Endeavors facility’s plan to open in Eagle Lake. Pecos’ local “hospital was inundated, water and sewer were affected because of sheer numbers. Law enforcement was affected ... [due to complaints regarding] inappropriate sexual contact because the facility detained both males and females,” the records request states.

An increase in UACs in Pecos alone was expected to increase its population by 40%, impacting nearly every area of residents’ lives, according to local news reports. Officials said they were only “getting partial information” and experiencing a “tidal wave” last August.³⁴

The city of Eagle Lake “was told by ORR that they would make sure the facility did not negatively impact the city financially. Pecos has claimed over \$300,000 in lost revenue for the ‘man-camp’ in HOT funds that would have been collected. ORR has not paid that request,” the record request states.

Third, HHS-contracted facilities impact local employment. When Endeavors opened in Pecos, authorities said the NGO was paying such higher salaries that the city “lost a significant part of its staff to them, especially younger employees.”

These facilities often pay teachers, medical workers, and other professionals more than city, county, or state governments can offer, especially in rural areas. Although, this may bring some individual monetary benefits to a local community, there is no guarantee that residents will be given first opportunity to the jobs. Furthermore, pulling well-qualified professionals from local much needed positions causes additional strain on the community. As Texas experiences an ongoing teacher shortage, particularly in rural or impoverished communities, independent school districts cannot compete with NGO wages. Influx of minors to these areas also imposes a strain on local resources, especially where teacher, medical professional or law enforcement personnel shortages already exist.

Fourth, officials have expressed concerns about how HHS-contracted facilities will strain local EMS and law enforcement resources in the event of a natural disaster. Officials in Eagle Lake and Wallis have raised concerns because their areas are historically prone to flooding. They have explained that during historic flooding events, regional Houston resources were unavailable to assist with evacuation of nursing home and local residents. As a result, resources were brought in from other rural areas to assist. According to documents obtained through open records requests, NGO run facilities in multiple cities failed to provide emergency evacuation plans in an adequate amount of time, or at all, Alliance for a Safe Texas learned.

Colorado County Judge Ty Prause, for example, raised concerns at a recent Eagle Lake City Council meeting, saying, “We cannot carry out the functions that the law charges us with without the answers to a lot of these questions that we have presented to Endeavors... on how we would coordinate any of these

³³ “Unaccompanied Child imposters Identified in El Paso,” U.S. Customs and Border Protection press release, August 19, 2022, <https://www.cbp.gov/newsroom/local-media-release/unaccompanied-child-imposters-identified-el-paso>, last accessed Nov. 9, 2023. Blankley, “DeSantis: ‘Reckless open border policies led to murders of two more Florida residents,’” The Center Square, March 30, 2022. https://www.thecentersquare.com/florida/article_88f1c118-b06c-11ec-ba6d-3742fc64d2f4.html, last accessed Nov. 9, 2023.

³⁴ Joshua Skinner, “Pecos struggles as government quietly expands migrant influx facilities,” CBS 7 News, August 29, 2022, <https://www.cbs7.com/2022/08/29/pecos-struggles-government-quietly-expands-migrant-influx-facilities/>, last accessed Nov. 9, 2023.

emergencies, because frankly, the county has not the resources that a big metropolis has to handle or to evacuate or to treat or to bus out such individuals."

He also raised concerns about jurisdiction, saying, "This is possibly a federal piece of ground, like an army base or a post. Do we have any jurisdiction under our emergency powers to evacuate etc., if called upon? What happens in the event of a disturbance, allegations of theft or sexual assault? All of those issues present questions that we don't have answers to at this point. ... Yes, they are what if's but when it happens, they are big what if's and I don't want the finger pointed at us, under all of our watch in this room, saying why were y'all asleep at the wheel and not thinking about these things."

Fifth, on top of these concerns, HHS-contracted facilities have a long history of maintaining little communication with local and state officials. In Midland, for example, local officials expressed frustrations about being blindsided by a facility opening without any communication about it.³⁵ Local officials have also raised concerns about ORR failures including using non-potable water for the minors, unsafe and insecure living conditions, and overcrowding. Similar concerns were voiced in Pecos, after numerous allegations of abuse, lack of communications, and concerns of strain on local, finite resources were documented.³⁶

In San Antonio, when allegations surfaced of minors being abused by an HHS-run operation at the Freeman Coliseum, Gov. Greg Abbott directed the Texas Rangers to investigate. He said his administration "uncovered four problems related to the housing of these children in San Antonio. They are being sexually assaulted, there are not enough staff to supervise them, some are not eating throughout the day, and those who have tested positive for the coronavirus are not being physically separated from others. In short, the situation is a health and safety nightmare."³⁷

Others have raised concerns about UACs exposing local communities to drug resistant communicable diseases in already strained municipalities with limited healthcare and financial resources. Border towns of Laredo and McAllen, for example, were especially hard hit by policies of releasing UACs and others who tested COVID-19 positive while Texas the U.S. was under a state of emergency.³⁸

³⁵ Joshua Skinner, Kate Porter, "Midland, Texas, leaders blindsided by arrival of migrants at holding facility," March 16, 2021, <https://www.kcrg.com/2021/03/16/midland-texas-leaders-blindsided-by-arrival-of-migrants-at-holding-facility/>, last accessed Nov. 9, 2023.

³⁶ Rachel Ripp, "Pecos residents say migrants coming could put a strain on local resources," News West 9, March 22, 2021, <https://www.newswest9.com/article/news/local/pecos-residents-say-migrants-coming-could-put-a-strain-on-local-resources/513-54fe1633-16e2-437a-98c7-9e8604cd79d1>, last accessed Nov. 9, 2023.

³⁷ Blankley, "Abbott: Biden administration is presiding over 'abuse of children'," The Center Square, April 7, 2021, https://www.thecentersquare.com/national/article_d688243e-9804-11eb-add3-ef2cb6d13b6a.html, last accessed Nov. 9, 2023.

³⁸ Stephen Dinan, "Health Department released thousands of illegal immigrant kids with latent tuberculosis infections," The Washington Times, July 18, 2023, <https://www.washingtontimes.com/news/2023/jul/18/health-department-released-thousands-of-illegal-im/>, last accessed Nov. 9, 2023. Blankley, "84% of Texas facilities holding unaccompanied migrant children have seen positive COVID-19 tests," The Center Square, March 26, 2021, https://www.thecentersquare.com/texas/article_cfec76f0-8e31-11eb-8320-abee535df939.html, last accessed Nov. 9, 2023.

Blankley, "Texas border city sued Biden administration over illegal immigration," The Center Square, July 29, 2021, https://www.thecentersquare.com/texas/article_c53ffbfe-f0a4-11eb-b77b-b330f7409090.html, last accessed Nov. 9, 2023. Anna Giaritelli, "More than 1,500 coronavirus-positive migrants released in one week in Texas border town," Washington Examiner, August 4, 2021, <https://news.yahoo.com/more-1-500-coronavirus-positive-205500567.html>, last accessed Nov. 9, 2023.

THE STATE LEGISLATIVE SOLUTION

Despite numerous concerns about these facilities failing to perform background checks on employees and volunteers in direct contact with UACs and repeated failures to properly vet sponsors to whom minors are released, HHS is attempting to codify these dangerous policies into federal law and make them permanent. While Texas cannot control the overwhelming failures of federal agencies, the Texas legislature has the opportunity and responsibility to regulate them and mitigate, and hopefully, eliminate atrocities being reported in them.

Two bills introduced this year can ensure safety measures are required for all facilities operation in Texas.

Currently, state government code and oversight of UAC housing facilities is vague and grossly inadequate to address consistent failures, including requirements for reporting abuse allegations. But the good news, is this year, state lawmakers in the Texas House of Representatives took significant first steps to propose a solution. And their efforts have bipartisan support.

Sen. Kolkhorst and Rep. Kitzman both filed bills in response to concerns about facilities in their district. The bills all received bipartisan support.

Kitzman, who is newly elected, filed four bills this year addressing this issue: House Bill 5000 in the regular session, House Bill 162 and House Bill 163 in the third special legislative session, and House Bill 97 in the fourth special legislative session. The bills would implement reform measures, specific safeguards and oversight by expanding existing local government codes.³⁹

HB 163, a refile of HB 5000, would require HHS-contracted facilities and property owners to obtain a state license, thereby placing NGO contractors under the same requirements as state licensed childcare facilities and nursing homes. All safety and transparency measures currently required for licensed child-care facilities and agencies would also be applicable to these NGO-run facilities.

HB 97, formerly HB 162, expands existing state codes including requiring a Memorandum of Understanding with appropriate local authorities. Its key provisions include requiring background checks and criminal history checks on all personnel; reporting illnesses at facilities to the appropriate local health authority; recording description of the facility's methods for preventing illnesses; requiring the creation and reporting of emergency evacuation plans; creating, maintaining, and reporting of education plans; submitting compliance and safety inspection and incident reports to local authorities; maintaining and reporting monthly facility occupancy records.

The bill also requires the owner or operator of a residential child detention facility to conduct a criminal history background check on all facility personnel if at least 10% of the facility's operating expenses are provided directly or indirectly by the state. Notwithstanding any other law, if the owner or operator fails to conduct the check, the facility is ineligible to receive state funding until the state conducts an audit of the facility and publishes a report of the audit that is available to the public, according to the bill language.

³⁹ Local Government Code, Title 7, Subtitle C, Chapter 250, <https://statutes.capitol.texas.gov/Docs/LG/htm/LG.250.htm#250.011>, last accessed Nov. 9, 2023.

HHS PROPOSED RULE CHANGE TO CODIFY EXISTING POLICIES

HHS is attempting to create a federal rule to allow NGO-contracted facilities to house UACs to operate in states without requiring them to be licensed by the states or meet minimum standards of care as required under the Flores Settlement Agreement. It's proposed rule change explicitly states, "ORR may place unaccompanied children in facilities that may not meet the standards of a standard program."⁴⁰

This would allow the federal government to codify outdated and harmful policies to define what constitutes an influx. By doing so, it would essentially ensure the UAC program is always under influx status. As a result, it would indefinitely expand the use of waivers for facilities to dismiss the requirement to meet minimum standards of care.

HHS' recently proposed Notice of Proposed Rulemaking attempts to adopt and replace regulations relating to the key aspects of the placement, care, and services provided to unaccompanied children referred to the ORR who are in federal custody.⁴¹

Its proposed codification of existing failed ORR policies will only further exploit children, Alliance for a Safe Texas maintains. Many of these policies and procedures have consistently proven inadequate to protect UACs from abuse and neglect and have failed to prevent further exploitation at the hands of improperly vetted sponsors. The failures of these policies by federal agencies directly negatively impacts Texas. Texas not only encounters more UACs than any other state, but also absorbs more UACs released to sponsors living in Texas than any other state. Additionally, the failures of HHS policies continue to place Texas communities and resources under undue strain and risk.

Alliance for a Safe Texas opposes HHS's proposed rule changes. Codifying current policies that have proven to fail is dangerous, especially since the number of UACs being released into the U.S. has increased to an unprecedented level since the Flores Settlement Agreement. The existing system is undeniably broken and has continued to fail under several administrations. Criminal cartel organizations continue to exploit loopholes created by federal policies. The false message that the United States can adequately care for the displaced minors of the world has consistently proven detrimental to UACs, American children, and local communities. Alliance for a Safe Texas encourages members of the public, state legislature and Congress to oppose HHS codifying these policies that will only make our communities less safe.

⁴⁰ Fourth Presentment of the Twenty-First Statewide Grand Jury, *ibid*.

⁴¹ "Unaccompanied Children Program Foundation Rule," Department of Health and Human Services, Administration of Children and Families, 45 CFR Part 410, <https://public-inspection.federalregister.gov/2023-21168.pdf>, last accessed Nov. 9, 2023.

CONCLUSION

As long as federal policies continue to fail and incentivize more UACs to enter the U.S., sovereign states must make every attempt to crack down on the frightening, long-standing insufficiencies that impact all children in the United States. With Texas leading the country for having the most ORR-operated facilities housing UACs, and attempts by HHS to codify its failed policies, the need for comprehensive legislative reform is urgent. The Texas legislature can finish the work it already started to protect UACs and all children in Texas being housed by HHS- contracted NGO-run facilities.

The bills reflect the state of Texas' commitment to humanitarian values, child welfare, and due process while ensuring Texas has the tools necessary to protect our communities. By addressing the unique challenges HHS-contracted facilities present, we can strike a balance between state policy and compassionate treatment. The ultimate goal is to create a more just and safer environment for Texas and for children who cannot defend themselves.

While the two bills proposed in the Texas legislature will by no means fix all the existing issues facing children and Texas communities, they are a tremendous, and necessary step, in the right direction. For the good of Texas, and to ensure all children are protected, it is imperative that the Texas legislature finish the job it began earlier this year. Texas cannot wait for Congress to act and has an opportunity to lead.

Well-defined minimum state standards must be implemented to govern these facilities, along with appropriate oversight. Texas can implement enforcement mechanisms, including penalties or levying of fines, and ultimately force some facilities to be shut down where abuses persist.

Texas has a Texas-sized problem and has the opportunity to create a Texas-sized solution—and one for other states to follow.

This report is by no means exhaustive but provides an overview of the crisis impacting Texas communities. To learn more, go to: www.securetheborder.com.

KEY POINTS

- The greatest number of UACs are released to sponsors living in Texas, more than any other state.
- Texas has more NGO-run UAC housing facilities than any other state, by far.
- No laws prohibit states from creating safety regulations, standards, or licensing requirements for these facilities operating on state land that contract with federal agencies.
- ORR's policy §410.1304(b) actively discourages care providers and contractors of facilities from contacting law enforcement regarding escalating issues.
- HHS/ORR policies have not been transparent and/or provided information about the safety of UACs and how effective current policies are.
- HHS/ORR have made several claims that state licensing or minimum standards are upheld, yet years' worth of evidence, including over the last three fiscal years prove otherwise.
- Over the last three years, emergency influx and permanent facilities have opened with little-to-no communication with local or state authorities, and with little regard to possible negative impacts on communities despite HHS/ORR claims to the contrary.
- **ORR is attempting to create a federal rule to allow NGO-contracted facilities to house UACs to operate in states without requiring them to be licensed by the states or meet minimum standards of care as required under the Flores Settlement Agreement. It's proposed rule change explicitly states, "ORR may place unaccompanied children in facilities that may not meet the standards of a standard program."**
- **ORR is attempting to codify outdated and harmful policies to define what constitutes an influx. This would essentially ensure its UAC program is always under influx status and indefinitely broadens expanding the use of waivers for facilities to dismiss the requirement to meet minimum standards of care.**
- Despite federal requirements that prohibit HHS/ORR facilities from hiring individuals without in-depth criminal background checks including fingerprints and sex offender registry checks, in May 2023 an HHS OIG report found extraordinary deficiencies in ORR's inability to follow its own guidelines.
- The report found that ORR has a history of not adhering to its own standards and regulations such as compliance audits. As a result, ORR placed vulnerable UACs, staff, and local communities nationwide in danger by using "unreviewable discretion," thereby waiving criminal background checks from being conducted, the OIG report found.
- OIG reported that many ORR Emergency Intake Sites and Influx Care Facilities are not licensed by states, have no Child Abuse and Neglect checks and operate with the use of waivers from safety measures required by the Flores settlement Agreement. By attempting to codify the outdated number requirements for what constitutes an influx, ORR is attempting to broaden the use of waivers across an unknown number of contracted facilities.
- **In Texas, passing legislation to expand regulatory oversight, mandate safeguards and define minimum state standards is necessary and possible. Texas can, and must, lead to protect children and American communities.**

ADDENDUM

Alliance for a Safe Texas has traveled all over the state for several years gathering information about these facilities. Below are photos of two facilities housing UACs in Texas.

Endeavors facility, Eagle Lake, Texas, Colorado County (plans to house UACs)



Figure 1: Endeavors Eagle Lake facility faces the local elementary school



Figure 2 Endeavors Eagle Lake facility also faces the city's hospital landing pad



Figure 3 Endeavors Eagle Lake facility gate faces the street where children are picked up from the elementary school



Figure 4 Endeavors Eagle Lake facility fence faces residential street

VisionQuest facility, Wallis, Texas, Colorado County (currently housing UACs)



Figure 5 VisionQuest facility entrance on Highway 60



Figure 6 VisionQuest facility entrance in Wallis



Figure 7 VisionQuest facility facing county-used field