

U.S. House Judiciary Committee  
Sub-committee on Immigration Integrity, Security and Enforcement  
The Biden Border Crisis: Exploitation of Unaccompanied Alien Children  
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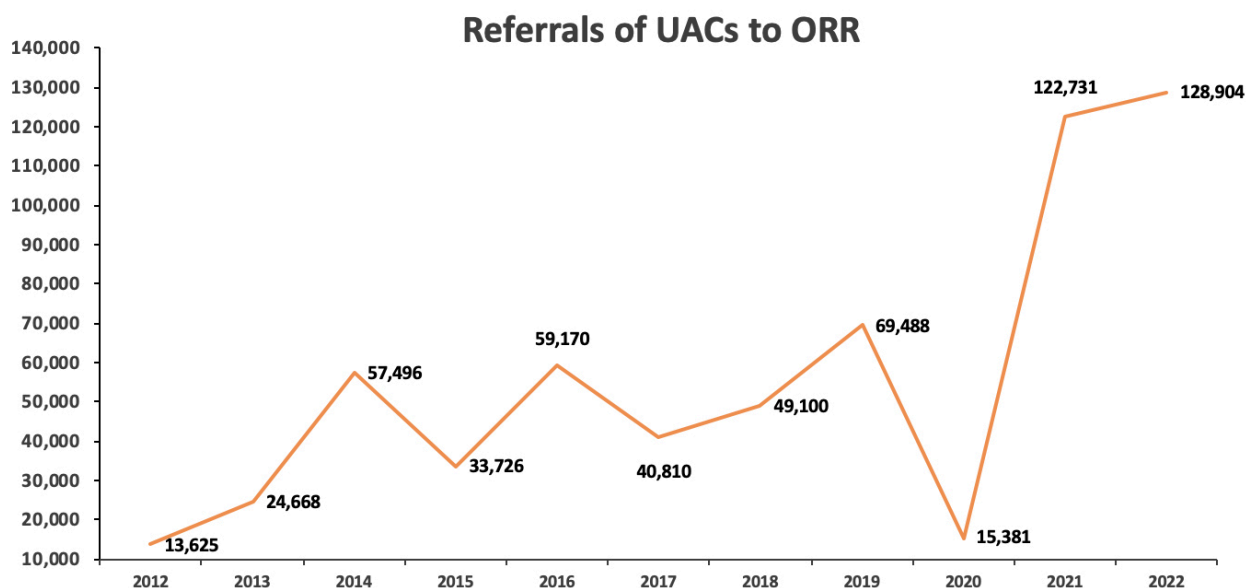
Thank you, Mr. McClintock and Ms. Jayapal, for the opportunity to testify today. The mass migration crisis instigated by the Biden administration's misguided immigration policies has caused incalculable harm to American communities, to the integrity of our immigration system, and, tragically, to many of the migrants themselves. These migrants were enticed by these policies to put themselves in risky situations to cross the border illegally, led by criminal smuggling and trafficking organizations, and enabled by government agencies and contractors that have looked the other way at the abuse and exploitation that frequently occurs en route and after resettlement. The most vulnerable group that has been endangered by the Biden policies are the more than 300,000 minors who have arrived on his watch (out of 660,000 total since 2012). They have been carelessly funneled through the custody of U.S. government agencies and contractors, and handed off to very lightly vetted sponsors (who are usually also here illegally) in our communities without regard to their safety and well-being. There is no question that the system for processing minors who cross illegally is dysfunctional, and has been for some time, and needs to be fixed. However, merely improving the processing and placement of UACs will not address the cause of the problem; it would only make a bad policy just slightly more safe for a still endless flow of unaccompanied minors. Instead, Congress must focus on fixing the main cause of the problem – the legal loopholes and judicial rulings that force and enable the government to operate a massive catch and release program for illegally-arriving alien children. In addition, Congress should refuse to fund the Biden programs that facilitate this influx of child migration and reform the Special Immigrant Juvenile program that offers a green card to tens of thousands of UACs.

**Biden Policies Set Off Flood of Illegal Migrants, Overwhelming Federal Agencies, Border Communities, and NGOs.** When he took office, President Biden inherited what many experts considered to be the most secure land borders in U.S. history, with expanded and improved barriers, updated technology, and more personnel, all of which was backed up by policies that deterred migrants from crossing illegally. Within a short time, that relatively secure southern border was transformed into a chaotic, lawless, and dangerous frontier, with cartels and criminal smuggling organizations strategically orchestrating illegal crossings of migrants. The incentive: the understanding that a large share of migrants who are apprehended by the Border Patrol, especially minors and those arriving with minors, would soon be released and transported to their destination, despite low expectations that they will comply with immigration proceedings or ever qualify to remain legally.

From the very beginning of his term, President Biden began dismantling a laundry list of policies that had succeeded in controlling the years-long wave of illegal migrants hoping to take advantage of our dysfunctional asylum system and court rulings that require minors and those arriving with minors to be released into the country. Biden ordered an end to construction of the border wall system; terminated the Migrant Protection Protocols that sent tens of thousands of alleged asylum seekers to wait in Mexico; cancelled agreements with transit nations to offer safe haven to migrants and enforce their borders; relaxed application of Title 42 pandemic controls so that minors and families could enter; began awarding immigration parole to tens of thousands of illegal crossers, in defiance of the intent of Congress; extended Temporary Protected Status (TPS) to citizens of more nations and more recent arrivals; established strict limitations on interior enforcement to suppress deportations of all but the most egregious criminals; and launched plans for a new asylum system designed to expedite the legalization of illegal border crossers. Not surprisingly, the number of illegal border crossers has exploded, in response to what the migrants call Biden's "invitacion."

As a result, the number of illegal border crossings continues to rise to record-breaking after record-breaking levels. According to the most recent Border Patrol statistics, last month, agents apprehended more than 162,000 illegal migrants at the Southwest border, up from just over 130,000 in February, and an increase of more than 33,000 over January. That’s an almost 25 percent increase over each prior month. The daily rate of apprehensions in March is 13 percent higher than February and 26 percent higher than January, when the president announced new border enforcement actions.<sup>1</sup> These figures do not account for the additional hundreds of thousands of illegal border crossers who evade apprehension (the “gotaways”).

The trend in the number of unaccompanied alien child illegal border crossers arriving each year has followed a similar trajectory, as shown in the chart below. These figures, drawn from HHS/ORR data, show the annual number of UAC case referrals to HHS from DHS since 2012.<sup>2</sup>



**Problems Were Well Documented Before Biden Policy Changes.** Considerable data, information, and analysis has been available to lawmakers and the public on the UAC migration crisis since its early stages. Numerous reports and studies have been published that have documented the demographic characteristics of the UACs, their motivations for coming to the United States, and their experiences. Several major investigative reports conducted by branches of the U.S. government and news media outlets have documented how U.S. policies and practices have facilitated not only this mass migration episode, but also the resulting exploitation and abuse of the participants, which has been present since the onset of this episode. These studies and reports have exposed numerous incidents of abuse, fraud, and trafficking for the purposes of commercial sex and forced labor. This is not a new problem; we know when it started and why, how it has worsened in recent years, and the disturbing consequences for many of the young people who have been caught up in it.

These reports include:

<sup>1</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/>.

<sup>2</sup> <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.

- A 2014 memorandum by a senior Border Patrol official, leaked to the public, raising concerns about the growing number of UACs encountered at the border, and documenting that one important, if not primary, motivation for the migrants was understanding that they would be released into the United States for an indefinite period and have the opportunity to work.<sup>3</sup>
- A 2014 intelligence report by U.S. Immigration and Customs Enforcement (ICE), leaked to a reporter, that similarly confirmed that migrants were drawn by U.S. policies, including the opportunity for release to join family members and find employment, escape difficult living conditions in their home countries, and the potential availability of legalization and amnesty programs in the United States.<sup>4</sup>
- A six-month investigation by the U.S. Senate Homeland Security and Government Affairs Committee in 2015 into the case of UACs trafficked for indentured labor at an egg farm in Ohio, resulting in hearings and a major report.<sup>5</sup>
- A September 2022 report by the HHS Office of the Inspector General, sharply criticizing the agency's handling of the UACs, in particular the relaxation of protocols for screening UAC sponsors.<sup>6</sup>
- A new report from a grand jury investigation in Florida, calling out the federal government, and in particular the Biden administration, for policies that have encouraged the influx of minors and lax placement policies that have led to exploitation of minors, fraud, and significant costs to state taxpayers for schooling and services to UACs.<sup>7</sup>
- Federal prosecutions and court rulings with detailed findings about the trafficking and exploitation of UACs and the role of U.S. policies in facilitating the crimes.<sup>8</sup>
- Numerous investigative journalism reports published over the years in the *Washington Times*, Reuters, and the *New York Times*, Project Veritas, and others, that provide graphic details of the experiences of UACs during and after their illegal crossing and placement with sponsors in the United States, including domestic servitude, sexual abuse, forced labor, labor exploitation, and illegal employment in manufacturing, landscaping, and other inappropriate and dangerous jobs.
- Open source research on involvement of UACs in criminal gangs, and the recruitment and exploitation of UACs by these gangs.<sup>9</sup>
- Several investigations by the Government Accountability Office on deficiencies in government agencies efforts to address the influx and processing of UACs, including one in 2020 on HHS oversight of UAC care facilities.<sup>10</sup>
- Numerous congressional hearings and committee reports over the last decade presenting testimony from government officials and independent experts on the legal issues, the operational challenges, the impact on local communities, and the disastrous outcomes for the UACs.

This litany of reports establishes that a combination of loopholes in U.S. immigration law, controversial judicial rulings, and deliberate but egregiously misguided policies have led to the victimization of countless young illegal migrants. This system, and especially the recent policies, have provided the incentives for minor

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<sup>3</sup> [Internal Memo Reveals High-Level Dissent on Border Surge Policies \(cis.org\)](#)

<sup>4</sup> [Darby Leaked ICE | PDF \(scribd.com\)](#)

<sup>5</sup> [Majority & Minority Staff Report - Protecting Unaccompanied Alien Children from Trafficking and Other Abuses 2016-01-282.pdf \(senate.gov\)](#)

<sup>6</sup> <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>

<sup>7</sup> [3rd Presentment of 21st SWGJ - DocumentCloud](#)

<sup>8</sup> See, for example, the ruling of Judge Andrew Hanen in *U.S. v Nava-Martinez*, [24747.pdf \(texas.gov\)](#), and numerous cases of trafficking and exploitation of UACs that have been prosecuted in federal court.

<sup>9</sup> See, for example, numerous reports by the Center for Immigration Studies at [Gangs \(cis.org\)](#).

<sup>10</sup> [Unaccompanied Children: Actions Needed to Improve Grant Application Reviews and Oversight of Care Facilities | U.S. GAO](#)

migrants to cross illegally with the help of criminal smugglers, the means for successful illicit crossings to resettle in the United States, and the opportunity for illegal employment that results in exploitation.

The most significant loophole in immigration law is the provision in the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) that directs the immigration agencies allow minors from non-North American countries who enter the United States illegally to remain here in the custody of a (loosely defined) sponsor under the auspices of completing immigration proceedings.<sup>11</sup> In addition, the TVPRA does not permit the repatriation of a child to a parent remaining in the home country.<sup>12</sup>

The controversial Flores Settlement Agreement (FSA) also has complicated matters for the government, in stipulating conditions and considerations on how UAC cases must be handled.<sup>13</sup> In addition, since 2019, Congress has further frustrated government efforts to investigate problem cases involving UACs by greatly restricting DHS agencies from obtaining information about UACs, statements they make about their sponsors or other contacts, and even performing background checks. According to then-Senator Kamala Harris, who authored the restrictions for a government funding law, the rule is designed to:

*Prohibit the Secretary of the U.S. Department of Homeland Security from using U.S. Department of Health and Human Services (HHS) information provided by an unaccompanied child, or initially obtained to evaluate sponsorship of an unaccompanied child, to conduct civil immigration enforcement actions against a child, prospective or current custodian or sponsor, or resident in the home of the prospective or current custodian or sponsor.<sup>14</sup>*

As a result, even if immigration enforcement agencies had the capacity and/or the marching orders to look into suspicious, potentially inappropriate, or fraudulent placement situations, it would be very difficult to obtain actionable information from its own federal agency partners.

Making matters worse, the Biden administration has shut down immigration enforcement at worksites, which is the obvious place to detect instances of exploitative employment of UACs, instead leaving these cases to be handled by the Department of Labor, which lacks some of the authorities of DHS agencies, especially concerning non-citizens, who are responsible for at least half of the forced labor trafficking violations that have been prosecuted in federal court each year, according to the Human Trafficking Institute.<sup>15</sup>

From 2012 to the 2020 pandemic, the UAC migrant crisis was bad enough under the constraints of the TVPRA and FSA. But under the new policies of the Biden administration, it has spiraled out of control, and led to a disturbing increase in reports of child exploitation, such as reported in the *Washington Times*, Project Veritas, Reuters, and *New York Times* accounts. As shown in the graph above, the number of UAC referrals to HHS custody in 2021 (about 123,000) was more than triple the average annual number of referrals over the previous nine years (about 40,000). From Day One of his administration, Biden relaxed immigration enforcement, implementing a lenient catch and release policy for most illegal migrants, including UACs. News of the more lenient policies led to more illegal migrant arrivals, which in turn overwhelmed the border agencies, and compromised their capacity to interview and screen migrants and their handlers.

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<sup>11</sup> For more on this and other loopholes, see [Why Are Central American Migrants Entering Illegally? Part 2 \(cis.org\)](#).

<sup>12</sup> [CBP IAP Interim Report \(dhs.gov\)](#)

<sup>13</sup> [The History of the Flores Settlement \(cis.org\)](#)

<sup>14</sup> [NYT Reveals Child Labor Exploitation Corresponds to Actions Taken by Harris, Biden, and Mayorkas \(cis.org\)](#)

<sup>15</sup> [Federal Human Trafficking Report | Human Trafficking Institute](#)

Even more concerning is that despite the rapid escalation in numbers of UAC arrivals, the Biden administration, apparently unconcerned about the known risks, made a bad situation worse by deliberately gutting many of the policies that had been in place to help avoid releasing minors to abusive situations. As noted in the Florida Grand Jury report, in the last two years the Office of Refugee Resettlement (ORR) has intentionally reversed certain critical procedures that helped to ensure the UACs' safety, such as home studies and background checks on sponsors and members of their households, post-placement monitoring, fraud referrals and investigations, and more. The Grand Jury observed:

*Some “children” are not children at all, but full-grown predatory adults; some are already gang members or criminal actors; others are coerced into prostitution or sexual slavery; some are recycled to be used as human visas by criminal organizations’ some are consigned to relatives who funnel them into sweatshops to pay off the debt accumulated by their trek to this country; some flee their sponsors and return to their country of origin; some are abandoned by their so-called families and become wards of the dependency system, the criminal justice system, or disappear altogether. Meanwhile ORR’s efforts and resources are less-directed at preventing or remedying any of these maladies, and instead appear fully focused on maximizing the number of children they can process, heedless of the downstream consequences to either the children or the communities into which they are jettisoned.*<sup>16</sup>

Biden officials have been clear that they are more interested in moving UACs through the system as quickly as possible than they are concerned about the safety and well-being of the minors in their custody. In a shocking video that was widely circulated earlier this year at just about the time of one of the news media reports on the burgeoning problem of UAC labor trafficking, HHS Secretary Xavier Becerra urged HHS staff to further accelerate the processing of the kids, saying, “This is not the way you do an assembly line.”<sup>17</sup>

**Examples of Exploitation of UACs Abound.** Easy access to resettlement in the United States is an irresistibly lucrative business opportunity for human smugglers and traffickers who exploit the UACs and their families. Immigration and Customs Enforcement (ICE) has said that the criminal organizations involved are raking in more than \$10 million a day, or \$6 billion a year, taking advantage of the Biden administration’s catch and release policies and the dismantling of interior immigration enforcement.<sup>18</sup>

Sometimes the traffickers promise naïve young migrants that they can go to school or work in the United States, and instead lure them into indentured servitude, peonage, sex trafficking, extortion, or demand that they work for the smugglers to pay off their debts to the traffickers. In other cases, desperate, unsuspecting, or opportunistic parents will arrange for their child to cross with a trafficker to work in the United States at a farm or factory, or worse. In the notorious Ohio egg farm case:

*... The defendants and their associates recruited workers from Guatemala, some as young as 14 or 15 years old, falsely promising them good jobs and a chance to attend school in the United States. The defendants then smuggled and transported the workers to a trailer park in Marion, Ohio, where they ordered them to live in dilapidated trailers and to work at physically demanding jobs at Trillium Farms for up to 12 hours a day for minimal amounts of money. The work included cleaning chicken coops, loading and unloading crates of chickens, de-beaking chickens and vaccinating chickens.*<sup>19</sup>

<sup>16</sup> Florida Grand Jury report, p. 4.

<sup>17</sup> [White House promises crackdown on migrant child labor \(usatoday.com\)](https://www.usatoday.com/story/news/immigration/2021/08/25/white-house-promises-crackdown-on-migrant-child-labor/8111111002)

<sup>18</sup> 5 Human Trafficking is Facilitated By Lenience and Chaos at Border

<sup>19</sup> U.S. Department of Justice, “Two Defendants Plead Guilty to Forced Labor Scheme that Exploited Guatemalan Migrants at Ohio Egg Farms,” August 25, 2015, Two Defendants Plead Guilty to Forced Labor Scheme that Exploited Guatemalan Migrants at Ohio Egg Farms | OPA | Department of Justice

In 2021, the federal government reportedly stopped releasing unaccompanied minors in at least two locations – Enterprise, Ala. and Woodburn, Ore. -- due to concerns about labor trafficking. The Department of Justice and two other federal agencies launched investigations based on suspicious clusters of arriving minors: “Some of these situations appear to involve dozens of unaccompanied minors all being released to the same sponsor and then exploited for labor in poultry processing or similar industries without access to education,” according to an email from a Justice official. So far, one couple in northern Alabama has been convicted of money laundering and conspiracy to transport illegal aliens unlawfully, and the other investigations apparently are still in progress.<sup>20</sup>

Some unaccompanied minors end up staying for longer terms in lightly supervised youth shelters, foster care, or with a sponsor, and then become vulnerable to enticement into gangs and/or sex trafficking. Just last week, in San Antonio, a man (an illegal alien who has been deported 15 times) was arrested for allegedly prostituting and sexually assaulting a teenage girl who was being sheltered by her trafficker last year at a stash house used for human smuggling. “State police said Diaz-De la Cruz, who is known as Karlos, housed the girl and allowed men to have sex with her for \$150, according to an affidavit supporting his arrest. In exchange, Diaz-De la Cruz would provide the girl with money, food and shelter.” The alleged trafficker had been deported in the previous year, but was later arrested on a South Texas ranch after once again crossing illegally with a large group.<sup>21</sup>

The establishment and resurgence of the transnational gang MS-13 in the Washington DC-Maryland-Virginia area, whose members are largely illegal aliens, many of whom originally arrived as unaccompanied minors, has brought an increase in cases of brutal sex trafficking in the area. The gang preys on young teenage girls who run away from shelters, foster care, or broken homes:

*In the United States, victims of MS-13 tend to be Latino immigrant girls or girls from the Northern Triangle countries who came into the country as unaccompanied minors.... HHS places minors either in foster care, with family or a sponsor.... MS-13 preys on the vulnerability of the unaccompanied minors; some have previously suffered sexual abuse either in their home country or during the trip north; others lack a community and do not speak English. Members of MS-13 seek out the vulnerable young girls using violence and other coercive tactics to intimidate the girl into having sex for money to help financially support the gang. Runaways are also appealing to the MS-13. Family problems, transitions from foster care and economic problems are some of the reasons that unaccompanied minors run away from their homes. Many of the unaccompanied minors may have experienced sexual abuse, exploitation or physical abuse in their home countries or during their migration to the United States and even more suffer from poverty and lack of a stable social network. These are all factors that make young girls more susceptible to human trafficking.<sup>22</sup>*

One typical case occurring in the area resulted in the prosecution of eleven MS-13 gang members for sex trafficking, assault, and other charges related to the prostitution of a 13-year old and 16-year old runaways. ICE officials have stated that an estimated 40 percent of MS-13 members they arrest originally arrived as UACs.

**Biden Policies on Unaccompanied Minors Fail to Protect Them From Trafficking.** The current policies that govern the placement of minors who arrive unaccompanied are inadequate to prevent these minors from being placed in inappropriate environments that include labor and sex trafficking situations and participation in or

<sup>20</sup> [U.S. Probes Trafficking of Teen Migrants for Poultry-Plant Work \(bloomberglaw.com\)](https://www.bloomberglaw.com/news/2021/05/12/us-probes-trafficking-of-teen-migrants-for-poultry-plant-work)

<sup>21</sup> [Undocumented migrant arrested, charged with trafficking, prostituting, sexually assaulting a teenage girl in San Antonio \(expressnews.com\)](https://www.expressnews.com/news/undocumented-migrant-arrested-charged-with-trafficking-prostituting-sexually-assaulting-a-teenage-girl-in-san-antonio)

<sup>22</sup> [The Connection between the Mara Salvatrucha \(MS-13\) and Human Trafficking \(humantraffickingsearch.org\)](https://www.humantraffickingsearch.org/the-connection-between-the-mara-salvatrucha-ms-13-and-human-trafficking)

exposure to criminal gangs. These policies have always been inadequate, in part due to the unmanageable volume of cases, but have been loosened even more by the Biden administration, increasing opportunity for bad actors to exploit the system.

The systemic deficiencies were described in detail in the Senate report following the investigation of the Ohio egg farm in 2014. They included poor vetting of sponsors and their households for suitability and financial stability, low standards for sponsors, allowing individuals with criminal histories and without legal status to sponsor minors, failure to monitor the minor's well-being after placement, and failure to deliver post-release services.

While the Trump administration adopted a number of policies recommended by the bipartisan investigators, including more thorough background checks and questioning of prospective sponsors, many of these reforms have been reversed by the Biden administration as it struggles to deal with the new influx and in its decision to prioritize swift release from federal custody over vetting of sponsors. These practices stray from well-established best practices for foster care, refugee, and similar child placements, greatly increase the risk of problems for the youth and increase the likelihood that some will end up being victimized by traffickers. According to HHS and numerous outside observers, the sponsors who come forward to take custody of these minors receive little meaningful vetting. They typically are subject to a biographical name check for criminal records, but are fingerprinted only if staff are able to articulate a reason why the placement might be a problem, not to discover information that might suggest a risk. Similarly, home studies to evaluate the environment to which the minor will be released or the sponsor's credibility or financial stability are done only in very rare cases, such as with child trafficking victims they have discovered; very young (under 12 years), disabled or abused children; or if a sponsor has volunteered to take in multiple kids. Contrary to best practices, other adults in the sponsoring household are not routinely subject to fingerprinting or investigation.

There is no meaningful monitoring of the minors' activities or well-being after they leave government custody and are placed with a sponsor. They are not required to accept post-release services, and in many cases the sponsors have blocked case workers from contact with the minors. In fact, the government usually loses track of the minors after release, either because the minors and their sponsors refuse to communicate, the youth moves to another household, drops out of school and services, and skips out on immigration hearings. As a result, it is difficult for authorities to detect situations where a minor is a victim of labor trafficking or coerced into indentured labor or other exploitation – until it is too late, and the damage to the victims is already done.

The Florida Grand Jury provided details on a notorious case in which a 24-year old man made it through Border Patrol screening to qualify for resettlement as a minor and placement with a sponsor in Jacksonville, who he later murdered.<sup>23</sup>

In June 2014, a 16-year old girl from Honduras approached Baltimore County, Md. police, telling them she had been smuggled into the United States to live with a 42-year old man, Pedro Lara Portillo, who claimed to be her guardian, and was forced into a sexual relationship:

*Federal investigators say that Lara had coordinated with the girl's mother and arranged to pay fees to a contact in Mexico so that she could cross into the country after leaving Honduras. From there she entered the U.S. alone, crossing the border in Texas, according to court documents. The teen aged gave Lara's name to officials working with the Office of Refugee Resettlement, and he falsely told them she would have her own room, according to court documents.*<sup>24</sup>

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<sup>23</sup> [Illegal immigrant who posed as minor while crossing border charged with murder \(nypost.com\)](https://nypost.com/2014/06/18/illegal-immigrant-who-posed-as-minor-while-crossing-border-charged-with-murder/)

<sup>24</sup> [Unaccompanied minor from Honduras alleges abuse by guardian – Chicago Tribune](https://www.chicagotribune.com/news/immigration/unaccompanied-minor-from-honduras-alleges-abuse-by-guardian-20140618-story.html)

In the Virginia MS-13 sex trafficking case, after running away from a group home in Fairfax, Va, the teen victims were horribly beaten to initiate them into the gang, and then repeatedly forced to engage in prostitution both to members of the gang and outsiders. From once court document:

*MINOR 2 was sex trafficked by numerous MS-13 gang members and associates shortly after she and MINOR 3 ran away from Shelter Care on August 27, 2018. According to MINOR 2, MINOR 3 informed her that she would engage in sex in exchange for money, food, and other things that MINOR 2 needed. During interviews with law enforcement, MINOR 2 and MINOR 3 both discussed staying at the residence of MOISES and JOSE ELIAZAR, two brothers who lived together... in Woodbridge, Virginia.... MINOR 2 informed law enforcement that multiple men engaged in sex with MINOR 2 in the wooded area behind MOISES' apartment. ...Geolocation data obtained during the investigation shows that MINOR 2 was harbored at multiple locations in Northern Virginia and Maryland....Numerous social media conversations involving MOISES, GUTIERREZ, and others, show their active involvement in finding different residences to harbor MINOR 2 for purposes of commercial sex.<sup>25</sup>*

**States Take Steps to Limit the Resettlement of UACs.** This influx has so severely strained schools, foster care systems, health care, and other social support systems that several states (South Carolina, Iowa, Nebraska, South Dakota, Texas and Florida) have announced that they will not participate in the resettlement of unaccompanied minors. In the case of South Carolina, the state determined that the arrival of any large group of children needing foster care placement would be an unacceptable burden on the state's existing capacity for "timely and stable placements and other services and supports."<sup>26</sup> The order further states that in light of a recent class action settlement agreement (Michelle H. v Haley) that requires the state to address numerous problems in its foster care placement system, including the number of foster homes, a case worker shortage, and the availability of health services, the governor determined that: "...accepting placements of unaccompanied migrant children entering the United States via the southern border into residential group care facilities or other foster care facilities located in, and licensed by, the State of South Carolina would unduly limit the availability of placements for children in South Carolina and would present a threat of harm to the children in such facilities and would constitute a failure of any such facility to keep the facility safe to care for children as contemplated by [SC law].

The Florida Grand Jury has recommended that the legislature pass a law that anyone taking custody of a UAC who is not the parent of legal guardian must report to the state within 30 days and initiate proceedings to determine legal custody of the UAC, or face felony charges. In addition, child welfare agencies involved in UAC resettlement would have to document claimed parental relationships with verifiable paperwork or DNA testing for those seeking to take custody of a UAC as claimed parents.

**Recommendations.** The Biden administration has implemented policies that incentivize the illegal entry of unaccompanied alien children on a massive scale, to the profit of criminal smugglers and traffickers, even with full knowledge of the risks that such policies will endanger the safety and well-being of the migrant children. Some supporters of these policies have defended them on the belief that they are aiding the reunification of families, providing a safe haven from difficult living environments in their home countries, and even benefiting US employers. On the contrary, I submit that there is no possible rationalization for policies that have facilitated the abuse and exploitation of child migrants on such a large scale for so many years. There is no possible humanitarian or economic motive that could justify or make up for the damage that has been done to the victims by the smugglers, traffickers, abusive sponsors, and even family members who participated in these dreadful arrangements.

I could propose a laundry list of reforms to the UAC placement process that would help prevent UACs from being placed into abusive situations and detect inappropriate or dangerous sponsors from getting custody of

<sup>25</sup> Affidavit in Support of Criminal Complaint and Arrest Warrant in *United States v MOISES et al*, July 31, 2020.

<sup>26</sup> [2021-04-12 FILED Executive Order No. 2021-19 - Prioritizing SC Children.pdf](#)



UACs. These reforms should occur, but Congress should not be satisfied with such an approach – merely improving the UAC placement process will not solve the problem, it will only make a bad system slightly less risky for the children. Even if every reform on my list were implemented, still it is impossible for government agencies and child welfare programs to prevent all instances of abuse and exploitation; there simply are not enough resources for the government to do this job. And, such reforms would not be enough to address the problem of illegal and exploitative employment of UACs. Experience has shown that even the most attentive home studies, background checks, follow up phone calls and visits, hot lines for minors, and alert neighbors and bystanders will not solve this problem.

To solve the problem, Congress must change the immigration laws and rein in the executive policies that are incentivizing the mass illegal migration of both adults and minors. When we reach the point where migrants understand that there is no point in entering an agreement with a criminal smuggling organization or a labor trafficker, or even attempting to illegally join a family member in the United States, because such illegal entry and employment will not be tolerated and result in the consequence of being sent home promptly, then the smugglers and traffickers will have few clients, and the government agencies will have a much greater ability to deal with a far fewer number of exploitation cases.

Such reforms would include:

- Scrapping certain provisions of the TVPRA to equalize treatment of illegal alien minors from contiguous and non-contiguous countries, and to allow for the repatriation of minors without delay;
- Writing a law to supersede the Flores Settlement Agreement, along the lines of the Trump administration's 2019 proposed rule;
- Reining in the Biden administration's abuse of parole authority that undergirds the catch and release policies, including the Central American Minors Program;
- Defunding certain programs that underwrite the contractors who administer the resettlement process and provide services to UACs, until Congress is satisfied that these processes are not facilitating trafficking and incentivizing illegal migration.

Many of these reforms would be accomplished by H.R. 2640, the Border Security and Enforcement Act of 2023, introduced by Mr. McClintock and Mr. Biggs, which was just passed by this committee last week. I respectfully suggest that Congress should consider a number of other reforms that relate specifically to the UAC problem:

- Reverse the Harris provisions, which prohibit information-sharing on UACs between HHS and immigration enforcement agencies;
- Terminate the Special Immigrant Juvenile program in its current form, which enables aliens who entered as unaccompanied minors to obtain orders of protection from state family courts based on a claim (often flimsy, unverifiable, or downright fraudulent) of abuse, neglect or abandonment by one parent. This order of protection is the basis for applying for a green card and offers a path to citizenship for tens of thousands of UACs now in the pipeline, many of whom would otherwise be ineligible due to a criminal history, gang involvement, immigration fraud, or simple inability to qualify under the legal immigration system created by Congress. If the program is to be continued, USCIS should have sole discretion to determine eligibility, and the law should limit access to minors who are entirely lacking appropriate guardianship either here or in their home country;
- Require federal agencies to notify state and local authorities about the transport and release of aliens in their jurisdiction, to include information on the number, locations, and expected needs of newly arriving migrants who are released pending immigration proceedings;
- Authorize and encourage states to regulate the child welfare contractors who work with the federal government on resettlement of UACs, to ensure that the resettlement programs occur with proper

consultation and cooperation with state and local authorities, without burdening communities in the state, and within the standards the state has established for all child welfare programs.

- Use appropriations authority to more effectively ensure that the executive branch is faithfully enforcing immigration laws according to congressional intent, including specifying how funds will be used for border enforcement, detention, and processing of specific categories of illegal border crossers, visa overstays, asylum applicants, and criminal aliens, and to include sufficient resources to detain illegal border crossers in the border area and a larger number of criminal aliens, deportation recidivists, fugitives and absconders, and to allow releases and alternatives to detention only in specified types of cases;
- Create more opportunity for state and local governments to investigate and penalize human trafficking and the illegal migration, human smuggling, identity fraud, and illegal employment.

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