



Migrant Women and Children at Risk:

In Custody in Arizona



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Since 1989, the Women's Refugee Commission has advocated vigorously for policies and programs to improve the lives of refugee and displaced women, children and young people, including those seeking asylum—bringing about lasting, measurable change.

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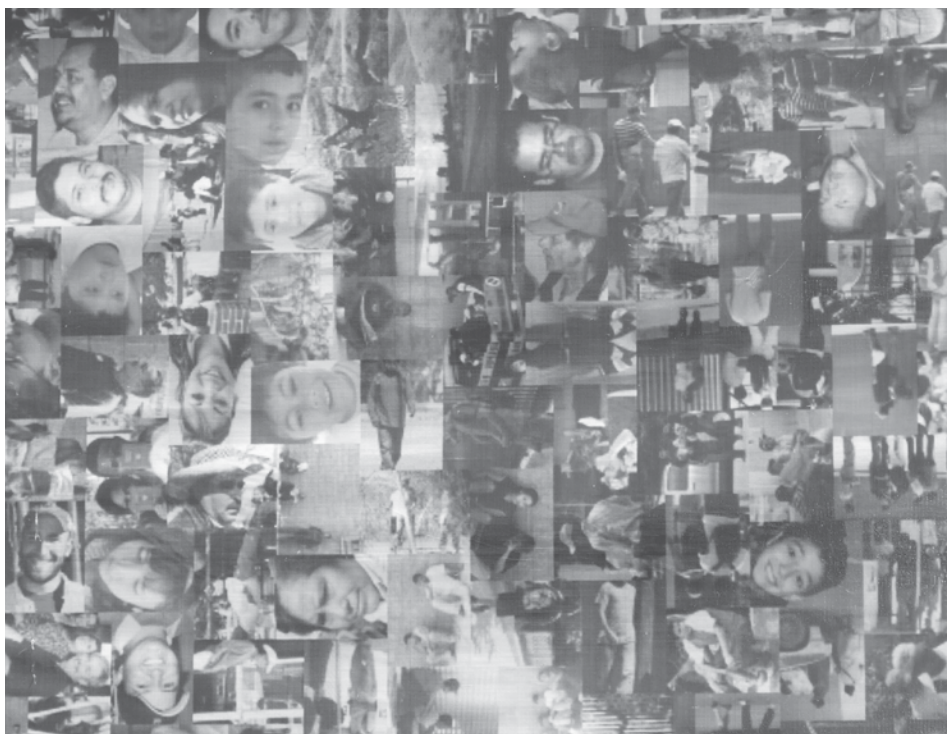
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This mural in Mexico represents the faces of migration.

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Acronyms & Abbreviations

CADC	Central Arizona Detention Center
DHS	Department of Homeland Security
DSM	Detention Service Managers
DUCS	Division of Unaccompanied Children's Services
FIRRP	Florence Immigrant and Refugee Rights Project
HHS	US Department of Health and Human Services
ICE	Immigration and Customs Enforcement
PBNS	Performance-Based National Detention Standards
TVRA	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008

Executive Summary

Every year, thousands of asylum seekers and immigrants are detained by the U.S. government, sometimes until their cases are decided—which can amount to days, weeks, months or even years. Immigration detention is the fastest growing prison program in the U.S. A record number of immigrants were deported in the year prior to October 2010. This heightened focus on enforcement, detention and deportation has had an unintended impact on family unity and parental rights.

In June 2010, a Women's Refugee Commission delegation traveled to Arizona to monitor detention conditions and compliance with relevant detention standards, assess progress towards detention reform and further explore the impact of immigration enforcement and detention on family unity and parental rights. We had also intended to observe screening, repatriation and overall treatment of migrants by U.S. Border Patrol, with a particular focus on assessing progress towards implementing protections for unaccompanied alien children, as mandated by the William Wilberforce Trafficking Victims Protection Act (TVPRA) of 2008. When we were denied access to Border Patrol stations and operations we instead toured facilities serving unaccompanied alien children in Phoenix and spoke with children about their treatment and experiences.

The trip's timing was unrelated to the April 2010 passage of S.B. 1070, Arizona's law aimed at expanding the role of local and state police in immigration enforcement. However, as a result of the legislation, the Women's Refugee Commission delayed the trip, originally planned for May 2010, by some weeks to allow the clamor set off by the law's passage to settle. Although we do not believe that the new law had any impact on our findings, local service providers, immigrants and immigrant children expressed additional concerns over their ability to do their work and their safety in light of the new legislation. If the law, which is currently facing legal challenges, is implemented, we would expect to

see an increase in the number of persons apprehended and detained in Arizona, as well as an increase in the number of children entering the foster care system because their parents are detained.

We faced numerous research barriers, including difficulty in gaining access to one of the two adult detention centers, an inability to interview adult detainees for whom we did not have preapproved signed consent forms and delay—and ultimately denial—of our request to visit the Nogales U.S. Border Patrol station and meet with Border Patrol staff. These incidents happened despite our constructive working relationship with Immigration and Customs Enforcement (ICE) headquarters in Washington, D.C., and suggest a resistance to reform and transparency at the field operations level as well as obstacles within Border Patrol at the headquarters level. These limitations also left our assessment with what should have been avoidable gaps.

Key Findings

- Despite efforts at policy reform within ICE, the detention system continues to be plagued by a lack of transparency and access, ineffective standards and monitoring and the unnecessary use of detention for vulnerable populations who pose no threat to our safety.¹
- At adult facilities, conditions of care violate the 2000 and the 2008 detention standards, including lack of access to religious services and recreation, inadequate medical care and lack of grievance procedures. Adults and children reported abuse and deprivation of basic necessities (food and water) at U.S. Border Patrol facilities.
- An increasing number of children in immigration custody are coming from Mexico, including many who are forced to smuggle people and drugs. Many children in care are on medication for mental health issues.
- Family reunifications of unaccompanied children, appear to be decreasing, possibly as a result of fear

created by the expansion of immigration enforcement.

- Detained women involved in custody cases are almost universally unable to participate in them.

Key Recommendations

- ICE should grant independent monitors and non-governmental organization (NGO) observers full and regular access to all facilities used to detain individuals on suspected or confirmed immigration violations for the purpose of oversight and monitoring, and permit these organizations to speak freely with detainees who agree to do so.
- ICE should ensure that detainees are not deprived of services, access to visitors, education or recreation due to gender, staffing, space, protection policies or because they are immigration detainees.
- ICE should ensure that the 2010 Performance-Based National Detention Standards guarantee all detained parents access to custody proceedings in person where available, or via video-telephone conference, and require that information on how to access proceedings be included in all detainee handbooks and posted in all residential units.
- DUCS should open additional therapeutic facilities to better serve children who need specialized mental health treatment and counseling.
- U.S. Border Patrol should grant independent monitors and NGO observers full and regular access to all facilities used to hold migrants for the purpose of oversight and monitoring, and permit these monitors and observers to speak freely with migrants who agree to do so.

Methodology

The Women's Refugee Commission visited two adult immigration detention facilities: Eloy Detention Center and Central Arizona Detention Center (CADC). In addition, we visited the Tumbleweed and Devereux Division of Unaccompanied Children's Services (DUCS) facilities, a DUCS foster care program run by Catholic Charities and a shelter and soup kitchen for recently deported migrants in Nogales, Mexico. We met with nine children, 13 women, including one woman who had recently been deported, and one man.² In addition, we met with attorneys and advocates at the Florence Immigrant and Refugee Rights Project (FIRRP), the Kino Border Initiative and the University of Arizona's Southwest Institute for Research on Women (via phone).

FIRRP and University of Arizona staff reached out to detainees during Legal Orientation Presentations and social work visits and identified detainees in the adult facilities who were willing to speak with us. We were not allowed to meet with anyone who was not explicitly preapproved. Attempts to talk to other detainees who expressed a desire to speak with us during our visit to CADC were immediately stopped by ICE and detention center officials. We had free access to speak to children at the DUCS facilities, and children volunteered after listening to a brief presentation about our work.

In all facilities our questions were aimed at gathering information on conditions of care and treatment during apprehension. Respondents were not compensated for participating and understood that we were not attorneys and would not be representing them legally. A member of the delegation served as an interpreter in cases where translation was needed.

A Snapshot of Immigration Detention and Its Impact on Families

ICE holds approximately 33,000 immigrants in detention on any given day, both in facilities operated by ICE and in facilities contracted to corrections companies or owned by states and localities. In some cases, facilities house only ICE detainees, while in others ICE detainees are held with, and sometimes commingled with, individuals serving criminal sentences. Among other vulnerable populations, ICE holds asylum seekers, survivors of torture and trafficking, women (including pregnant women), the elderly, mentally ill adults and, in some cases, families. After apprehension,³ unaccompanied children⁴ are transferred to the custody and care of DUCS, which lies with the US Department of Health and Human Services (HHS).⁵

In addition, ICE detains many immigrants who are parents, often of U.S. citizen children. These parents and children can become entangled in complicated custody cases that play out in family courts, often far away from the detention center holding the parents. Many detained immigrants do not have the chance to explain to their children what is happening or to make arrangements for their custody. Furthermore, they are unable to participate in custody hearings in person or by telephone or video, leaving them unable to fight for their parental rights.

Through research trips like the one to Arizona, the Women's Refugee Commission gathers information that is critical to our ability to effectively advocate for increased protection and improved treatment of detained asylum seekers, particularly women, children and families. We work collaboratively with the Department of Homeland Security (DHS) and HHS to ensure that best practices are identified and replicated and that policies and practices that undermine the protection and well-being of migrants are identified and improved. We also develop and promote recommendations de-

signed to reduce the unnecessary use of detention and improve treatment of those who must be detained.

Findings from this trip were reported back to ICE's Office of Detention Policy and Planning.

Findings

Our findings indicate that despite efforts at policy reform within ICE, the detention system continues to be plagued by a lack of transparency and access, ineffective standards and monitoring and the unnecessary use of detention for vulnerable populations who pose no threat to our safety. These failures come at great cost to the safety and well-being of detainees and their families. In addition, the complete lack of standards governing short-term facilities, including U.S. Border Patrol stations, and the total unwillingness on the part of Border Patrol to engage with NGOs and to provide access to their operations reinforces our existing concerns about the safety and well-being of migrants. At the adult facilities, we observed conditions of care that violated the 2000 and the 2008 detention standards,⁶ including lack of access to religious services and recreation, inadequate medical care and lack of grievance capabilities. In addition, the children and adults we spoke with recounted stories of abuse and depriva-



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The Mexico side of the U.S. Mexico border.

tion of basic necessities (food and water) during their time in Border Patrol custody and told us of traumatic apprehensions that undermined family unity and children's well-being.

Unaccompanied Children

The Women's Refugee Commission met with unaccompanied alien children housed at two shelters and in one foster care program. The children in custody we spoke to ranged from those who had crossed the border by themselves and knew no one in the U.S. to those who had grown up in the U.S. and were apprehended as a result of contact with local police.

Those who had crossed the border often had traumatizing experiences at the hands of the smugglers who helped them enter the U.S. Some reported further trauma while in Border Patrol custody. One 16-year-old girl we met with had been beaten so badly en route that Border Patrol officials immediately took her to a hospital. While it is reassuring that she received care, we were disturbed that the male Border Patrol agents who transported her to the hospital insisted that she undress in front of them and be shackled to her bed. This child faced even further trauma when, during her hospital stay, she learned that she was pregnant.

"Drink water out of the toilet if you're thirsty"

Luz (not her real name) crossed the U.S./Mexico border in May 2010 with a guide who threatened to hit her if she revealed her true age to officials. When Border Patrol apprehended her, she lied about her age and was detained with adults for 12 days before telling the truth. While in custody, Luz received no food for the first three days and was told to drink water out of the toilet if she was thirsty.

Her family in the U.S. does not want to assume the expense of sponsoring her, leaving her instead in DUCS custody at the Devereux facility.

In other cases of apprehension, children were often first taken to Border Patrol holding facilities or stations, given juice, cookies and sometimes hamburgers, and remained there for a day or two before being transferred to shelters in Phoenix. Some were misidentified as adults and were placed in adult detention facilities before being transferred to DUCS. While we heard anecdotal evidence of abuse or maltreatment (which children claimed they had heard from other children), the children we spoke to did not report any directly. Many, however, described being scared and feeling alone.

During our interviews we learned that staff at the facilities are seeing an increase in the number of children from Mexico since the fall of 2009. Staff also told us that they have observed an increase in the number of children coming into custody after being apprehended at drop houses as well as an increase in the number of children who are involved in the smuggling of people and drugs. Some speculated that children are increasingly being exploited by smugglers because smugglers know that children are less likely to face serious criminal charges.⁷ Staff remarked that the children who are involved in smuggling and other criminal activity (many of whom are forced into it) have a higher rate of psychological issues. One staff member noted that at one point 30 percent of the children in their care were on medication for mental health issues. The need for more therapeutic care options for unaccompanied children was documented in our 2008 report, *Halfway Home: Unaccompanied Children in Immigration Custody*, and appears to be an ongoing deficiency in the DUCS program.⁸

In 2007, DUCS reported that 60 percent of children in their custody were reunified with family or sponsors.⁹ However, our interviews indicate that reunifications may be decreasing as a result of fear created by the expansion of immigration enforcement. Staff at the Devereux facility told us that they have seen a decline in the number of families who are willing to sponsor a child and only about 50 percent of children are reunified. Staff at all facilities speculated that this was because

Abused boy, 14, held in cold cell for two days

Eduardo (not his real name), a 14-year-old Salvadoran, left his country to reunite with his mother because of abuse by his stepparents. After crossing from Mexico to the U.S. with the help of a coyote, he was detained for two days in a cold cell before being brought to a shelter in Phoenix. He is trying to reunite with his mother in Utah, who is afraid to travel to Arizona because she fears being caught by immigration.

of fear of being detained by ICE and noted that in some cases parents are advised not to come forward. Interestingly, staff at the Catholic Charities foster care program reported a 95 to 99 percent reunification rate, which might in part be explained by the number of young children placed there, many of whom were likely coming to the U.S. to join their parents. In both programs, staff told us that if the family was willing to pay for travel, a staff member would escort the child to be reunified so that the family did not have to risk the trip themselves. They noted that this ad hoc solution was a great strain on staff time and resources but was increasingly being employed because there was no other alternative that would enable reunification.

Women in ICE Custody

Conditions at Eloy and CADC differed somewhat, and it is important to note that the women housed at CADC—where we found worse conditions—have since been transferred to the Eloy Detention Center. However, some core themes emerged. Conditions and amenities described by ICE and facility staff during our tours were refuted by the women we spoke to—most specifically, access to medical care and religious services, recreation and the legal library were either impossible, or not nearly as frequent as we had been told. Detainees also reported difficulties in filing grievances. Our findings indicate that the facilities are in violation of both the 2000 National Detention Standards and the 2008 Performance-Based National Detention Standards (PBNDS) in several critical

areas.¹⁰

In both detention centers, detainees had troubling complaints about the medical care system, including complaints about delayed and denied care. Most significantly, at both facilities we met detainees with more serious medical concerns who did not appear to be receiving adequate care. Problems were particularly pronounced at CADC.

- One detainee with multiple sclerosis was told she could not receive her medication until she was examined by a neurologist. She had been at Eloy for two months. It took one month for her medical files to be transferred to Eloy and she had been trying in vain since the files arrived to persuade medical staff to schedule the consultation.
- At CADC we met a woman with visible swelling over her entire body, which, she told us, was extremely painful. In four months she had only been permitted to see a doctor one time and had not been provided with any treatment to reduce her pain.
- At CADC, women noted that their unit was constantly out of medical and grievance request forms, requiring another form simply to request the first form.
- Women at CADC reported that medical treatment was often degrading: they are frequently told by medical staff that they are criminals who are not entitled to care; other detainees are used as interpreters, including during mental health consultations; medical staff deny their complaints of depression or anxiety and refuse them medication for these conditions, even when they had been receiving treatment at a previous facility.
- One woman at CADC told us that her chart had been confused with that of another detainee.
- Several of the women at CADC told us they believed the men were receiving much better medical care.

We also heard troubling information about grievance procedures at CADC. ICE and facility staff told us that

Woman, two years in detention, denied medical care

Najat (not her real name), who is in her mid-forties and a legal permanent resident, has been in immigration detention for two years. She was originally detained for a theft crime for which she was never proven guilty and was told to do one month of community service. Her six-year-old daughter is in the custody of her boyfriend, who has lied to the family courts about the status of Najat's immigration status. Najat cannot find out the status of her daughter's custody case and officials refuse to answer questions about her own immigration and detention case. She suffers from a number of medical issues for which she has frequently been denied attention and/or medication. She wishes there were Islamic religious services available to her. Most of all, she wants to be released from detention.

grievance forms were available in all housing pods. However, women reported that they had to fill out a grievance form request in order to obtain a grievance form and that the housing pod had been out of the request form for some time. Several of the women we spoke to at this facility had filed grievances but told us that no one had ever responded and that nothing had been done to improve the situation they were complaining about. Women at CADC also told us that the ICE liaison, who is supposed to assist with problems facing detainees, does nothing but sit in the pod and flirt with women, even when the women have tried to persuade him to help by showing him the rights listed in their detainee handbook. One woman at CADC spent 90 days in isolation because, she believes, she filed a grievance against another detainee.

In addition, ICE officials at both CADC and Eloy noted that religious services were available for different faiths, including Islam. However, a Muslim woman detained at Eloy told us that she had never been told about Islamic services and that, when she had asked the Christian chaplain, he said he knew of none. A Muslim

detainee at CADC reported similar lack of religious accommodation.

At CADC we also learned from the women we spoke to that they were being housed next to a pod of cells housing sexual offenders. This discovery was particularly troubling given that only two weeks before ICE had revealed incidents of sexual assaults by guards on female detainees and had committed to taking steps to reduce sexual assault in detention.

In both detention centers we met with parents who had been separated from children. Some had ongoing custody cases that they were desperate to participate in. Others reported being apprehended and subjected to humiliating searches in front of their children, or being forced to leave their children behind without first being able to make custody arrangements for them. Many women we met with had been in emotionally and/or physically abusive relationships, in some cases with men who were now caring for their children. Those women who did have a custody case were almost universally unable to participate in them. In some cases this was because child welfare workers or their public defenders were not communicating information about custody proceedings to them in time for them to participate. In other cases, women knew about family court dates but did not know they could ask to participate from detention or had requested access by video or telephone but had been denied. Without the ability to participate, and without any regular updates from their children, their children's case workers or their loved ones, these already traumatized detainees live in a constant state of fear over the safety and well-being of their children and face possible termination of their parental rights.

One way in which ICE has committed to improving oversight of detention facilities and compliance with detention standards was to create the position of Detention Service Managers (DSMs) in its largest facilities. While we met with DSMs at both Eloy and CADC, we noted that both had previously worked in immigration enforcement and in the same facility, which we believe reduces their ability to be independent

monitors. It remains to be seen what impact these new positions have had on conditions of care. The violations of standards that we found suggest that the DSM position is not yet having its desired impact.

What We Didn't See and Why

Our findings are also impacted by what we were not able to see on our trip. This relates in particular to two areas: 1) U.S. Border Patrol and 2) the ability to speak with ICE detainees more freely and in a more transparent way during our visits.



U.S. Border Patrol station in Mexico. We were unable to visit Border Patrol operations.

The Women's Refugee Commission contacted the relevant agencies several weeks in advance of our trip to request permission to access detention centers and Border Patrol stations and to observe repatriation procedures.¹¹ We have positive working relationships with staff at ICE headquarters and DHS Office of Policy, who understand that allowing NGOs access to their field operations constitutes an important form of transparency and oversight. ICE quickly granted us permission for the dates requested, but we were later informed that we would have to delay our visit to CADC because the Phoenix field office felt our visit interfered with their workload. On the day of our visit to CADC

we learned that the facility was being monitored by the U.S. Marshals Service and that our tour would be abbreviated as a result.

Our requests to Border Patrol headquarters did not yield the desired outcome. Despite initial indications that we would be allowed to access their operations, our request was ultimately never approved. Border Patrol headquarters and local officials delayed a final response to our requests until we had left the border area. The denial left us scrambling to access other organizations that might provide some insight to the information we sought.

At the detention centers, ICE required that we submit names, alien registration numbers and signed consent forms for the detainees we wanted to speak with several days prior to our visit. Although we do not believe that this resulted in any retaliation or intimidation, the process leaves us concerned about the well-being of the detainees with whom we wished to speak. At CADC, women who presented us with signed consent forms on the day of our visit were nonetheless denied access to us because we had not obtained prior approval. These women were desperate to speak with us about their cases and the conditions of their detention and in some cases followed up in letters they passed out to us through their friends or sent directly to the Women's Refugee Commission after our visit. One woman actually snuck in to speak with us, even though she had previously spent 90 days in isolation and might have expected similar consequences for her actions.¹² Their desperation leads us to conclude that conditions at these detention centers are problematic and reinforces our belief that greater independent monitoring and oversight is critical to ensuring detainee well-being.

Recommendations

The Women's Refugee Commission continues to work with DHS and HHS to improve the conditions of custody for children and adults, advocate for improved policies to ensure that vulnerable migrants have access to protection, reduce the unnecessary use of detention and ensure that detained parents and other immigrants are afforded due process. Findings from our June 2010 Arizona trip support the following recommendations:

Detention Conditions

- ICE should grant independent nongovernmental organizations full and regular access to all facilities used to detain individuals on suspected or confirmed immigration violations (including short-term and under-72-hour facilities) for the purpose of oversight and monitoring, and permit these organizations to speak freely with detainees who agree to do so.
- ICE should clarify applicability of and ensure compliance with the 2008 and forthcoming 2010 Performance-Based National Detention Standards and promote meaningful accountability on the part of monitors and Detention Services Managers by codifying the 2010 standards in regulations and by holding staff and facilities accountable through penalties for noncompliance.
- ICE should fill Detention Services Manager positions with new DHS employees or individuals who do not have past relationships with facility contractors or staff.
- ICE should ensure that detainees are not deprived of services, access to visitors, education or recreation due to gender, staffing, space, protection policies or because they are immigration detainees. ICE should require that an independent monitor conduct a thorough review of each facility at least once per year to ensure that the facility is operating with awareness of the unique needs of women detainees and that policies and practices guarantee an equal level of ser-

vices to detainees regardless of gender. Monitoring should include meaningful interviews with detainees that provide for protection against retaliation.

Parental Rights

- ICE should ensure that the 2010 Performance-Based National Detention Standards guarantee all detained parents access to custody proceedings in person where available, or via video-telephone conference, and require that information on how to access proceedings be included in all detainee handbooks and posted in all residential units.
- ICE should provide deportation officers with guidance on handling the detention and removal of parents facing challenges to their custody rights, including guidelines on granting humanitarian release and on delaying deportation pending receipt of travel documents and coordination of children's travel plans. ICE should hold deportation officers accountable for failing to facilitate access to family court proceedings.
- ICE should amend the Risk Assessment Tool to designate all parents or caregivers of minor children or dependents to the list of vulnerable populations.

Unaccompanied Migrant Children¹³

- DUCS should open additional therapeutic facilities to better serve children who need specialized mental health treatment and counseling.
- DUCS should ensure confidentiality of information regarding the immigration status of family members coming forward to claim children in order to facilitate reunification.¹⁴

Border Patrol Operations

Because we were not afforded access to Border Patrol facilities it is difficult to make recommendations to improve practices. We have, however, no reason to believe that conditions have improved since our last visits and findings reported in *Halfway Home: Unaccompanied Children in Immigration Custody*.¹⁵ Our observa-

tions and lack of access have only served to increased our concerns about the treatment of migrants, including unaccompanied alien children. Independent monitoring of Border Patrol operations is critical to ensure the safety and well-being of migrants, in particular children, who are especially vulnerable, and we recommend that Border Patrol grant independent monitors and NGO observers full and regular access to all facilities used to hold migrants for the purpose of oversight and monitoring, and permit these monitors and observers to speak freely with migrants who agree to do so.

Notes

¹ We are aware that the reforms are new—some had very recently been implemented or not yet implemented at the time of our visit. We anticipate that the results of reform will be more evident in the next year.

² Shortly after our trip, we learned from local advocates that all immigrant women detained at CADC had been transferred to Eloy. To our knowledge, there are currently no ICE detainees at CADC.

³ For more information on the treatment of unaccompanied children see *Halfway Home: Unaccompanied Children in Immigration Custody*, Women's Refugee Commission, February 2009. www.womensrefugeecommission.org/component/docman/doc_download/196-halfway-home-unaccompanied-children-in-immigration-custody-halfway-home-unaccompanied-children-in-immigration-custody?q=halfway+home.

⁴ The Homeland Security Act of 2002, §462 defines an unaccompanied child as a child who has no lawful immigration status in the United States, has not attained 18 years of age and with respect to whom there is no parent or legal guardian in the United States or no parent or legal guardian in the United States is available to provide care and physical custody.

⁵ Division of Unaccompanied Children's Services, housed within the Office of Refugee Resettlement (ORR) of the Department of Health and Human Services (DHHS).

⁶ Various standards are currently in effect. While facilities are not legally or contractually bound by the 2008 Performance-Based National Detention Standards (PBNDS), ICE has stated that they are all capable of complying with them. Facilities we visited violated aspects of both the 2000 National Detention Standards and the 2008 PBNDS.

⁷ Anonymous source.

⁸ For more information see *Halfway Home: Unaccompanied Children in Immigration Custody*, Women's Refugee Commission, February 2009.

⁹ Ibid.

¹⁰ For more information on the detention standards, go to <http://www.ice.gov/partners/dro/dmp.htm>.

¹¹ We contacted DUCS several days before our visits to Devereux and Tumbleweed and the day of our visit to Catholic Charities foster care. We were granted permission to visit the facilities almost immediately and were given full freedom to speak with children.

¹² We contacted ICE headquarters to advise them of what had happened immediately after leaving the facility. This woman was released soon after our visit.

¹³ Because the original purpose of this trip was not to monitor DUCS facilities, we have not made significant or comprehensive observations or recommendations for DUCS facilities in this report. For a more comprehensive assessment and recommendations regarding unaccompanied children, see *Halfway Home: Unaccompanied Children in Immigration Custody*, Women's Refugee Commission, February 2009.

¹⁴ See *Halfway Home: Unaccompanied Children in Immigration Custody*, Women's Refugee Commission, February 2009, for more details and supporting findings.

¹⁵ Ibid.



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