

Punishing Trauma: Incident Reporting and Immigrant Children in Government Custody

Who Are We?

Young Center for Immigrant Children's Rights (theyoungcenter.org)

- **Mission:** to advocate for the rights and best interests of immigrant children as set forth in the CRC
- **Model:** Attorneys and social workers, supported by volunteers, are appointed as independent Child Advocate to ensure that children facing the US immigration system are not alone, their wishes are heard, and their best interests are protected
- **Method:** Child Advocates submit best interests determinations (BIDs) to any decision maker in a child's case—HHS, DOJ, DHS, state courts, attorneys, others
- **Goal:** change the immigration system so that children in immigration proceedings are recognized as children and their best interests are considered in every decision impacting them.

National Immigrant Justice Center (NIJC - immigrantjustice.org)

- Nonprofit organization headquartered in Chicago that offers a wide range of legal services to 10,000+ low-income immigrants, refugees, and asylum seekers a year.
- Provides legal services to detained and released unaccompanied children, including representation in immigration court and before the U.S. Citizenship and Immigration Services.
- Blends individual immigration legal representation with advocacy for systemic change.

Agenda

- **Who are Unaccompanied Children?**
- **What is the role of Office of Refugee Resettlement (ORR)?**
- **What are Significant Incident Reports (SIRs)?**
- **How are SIRs used?**
- **Survey Findings**
- **Our recommendations**
- **Q&A**



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Who are Unaccompanied Children?

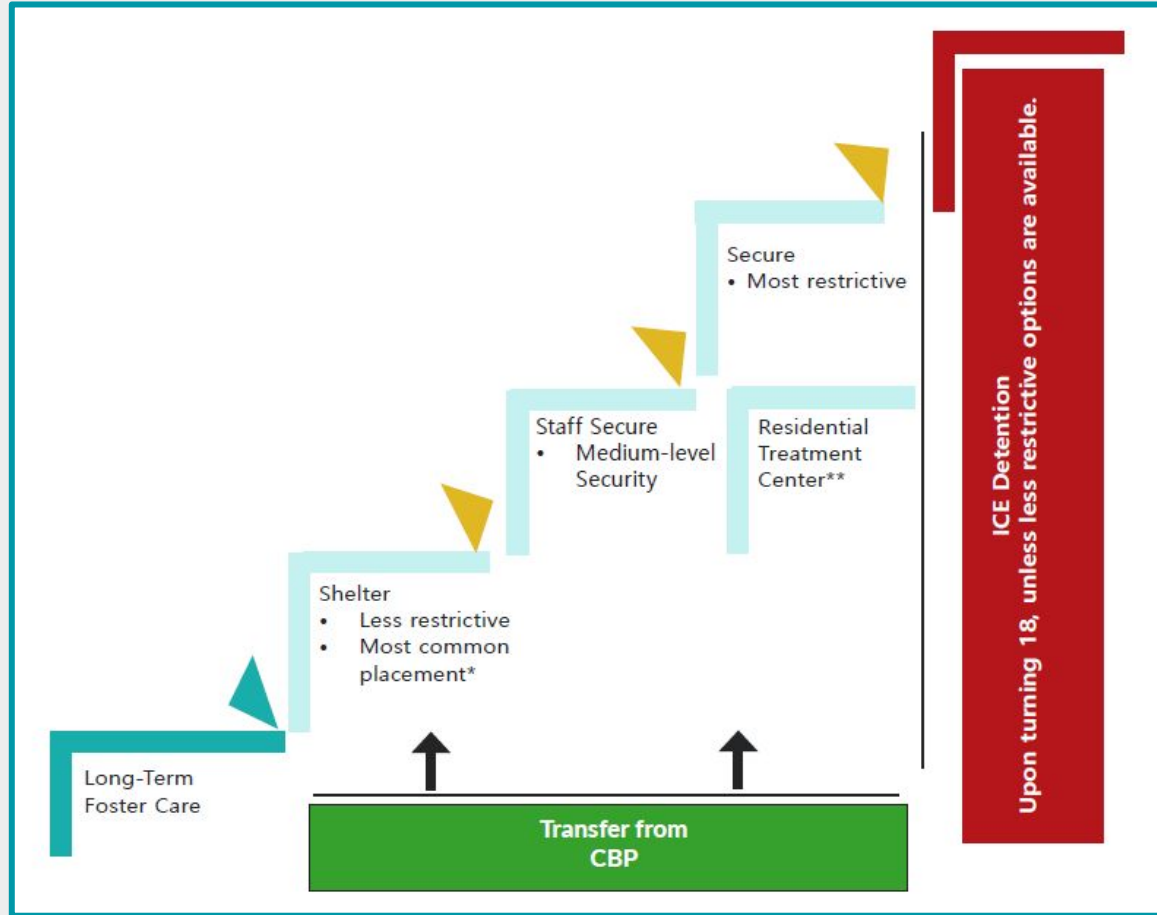
- Travel alone to the United States or are separated from parent, legal guardian, or caregiver
- Taken into government custody and placed with the Office of Refugee Resettlement while awaiting release



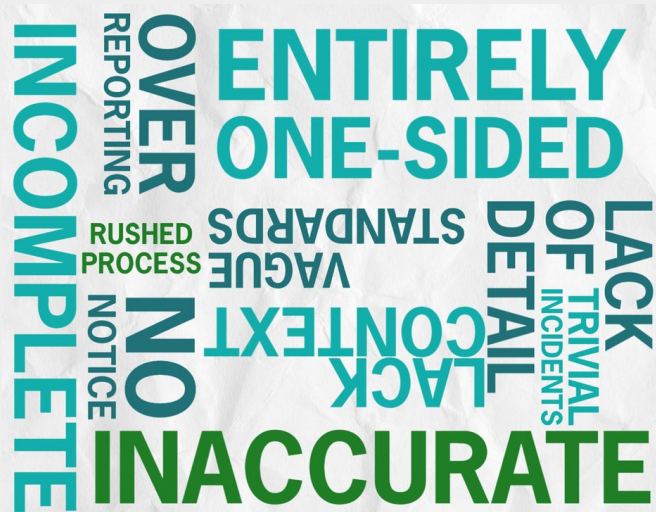
- Challenges, stressors, and trauma
 - Experiences in countries of origin
 - During migration journey
 - Upon arrival in U.S.
 - ORR custody
 - Cumulative trauma – “building block effect”



What is the role of the Office of Refugee Resettlement (ORR)?



What are SIRs?



- One of the most common forms used in ORR to document...
 - Small rule infractions (sharing food, getting up to go to the bathroom too soon)
 - Horseplay
 - Boundary challenging behavior
 - Disclosing past harm suffered
 - Manifestations of trauma, grief, or disability
- “Inaccurate” + “incomplete” per ORR
- Can prolong children’s time in custody and delay reunification with loved ones

“I thought I was going to go with my mom, but I was informed in the car that I was going to another shelter. I was asking them why. They answered that I could not be in that program because I had too many reports. I asked them, ‘what reports?’ because I was never warned that there were reports against me. They gave me no more explanation or opportunity to defend myself. I started to cry because I was frustrated and also because I did not think it was right that I was suddenly moved.”³³

**IN THE FISCAL
YEAR OF 2019, ORR
FACILITIES SUBMITTED
OVER 100,000
SIR FORMS FOR LESS
THAN 70,000
CHILDREN IN CUSTODY,
USING OVER 34,000 HOURS
(OR THE EQUIVALENT
OF OVER 4 YEARS) OF STAFF TIME.**

ORR consistently uses
SIRs to over-report
incidences of children
under its supervision.

SIRs can have
devastating
consequences on a
child's immigration
case and permanency

How are SIRs used?

SIRs have become a **driving force of ORR's disciplinary structure** rather than a tool to ensure children receive the care they need.

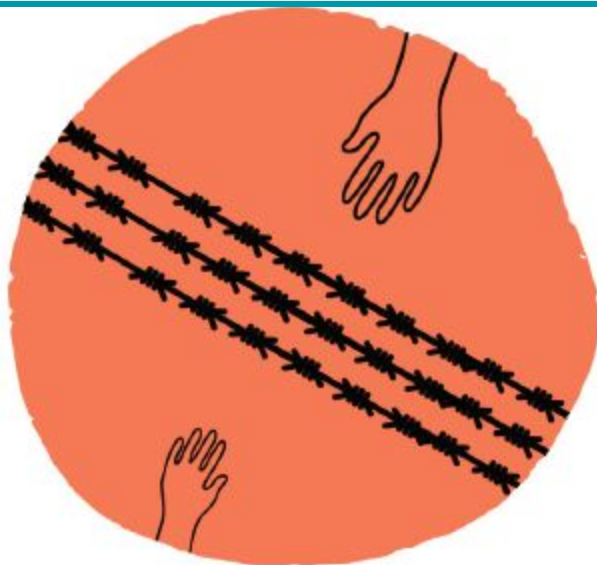
SIRs can...

- Prolong children's stay in custody
- Lead to more restrictive placements or “step ups”
 - Denial of “Step-Down” to less restrictive placements
 - Delay or Denial of release from ORR to sponsor/family
 - Delay or Denial of placement in
 - Foster care
 - Unaccompanied Refugee Minors program
- Lead to a child's transfer to ICE detention when turning 18
- Adversely impact legal relief applications (e.g., asylum)
- Lead to calls to police & criminalization of children
- Undermine staff-child relationships and children's trust in staff

Survey Findings



No siente bien saber
que todas las personas
te tienen miedo. Eso te
convierte en un monstruo.
Eso es lo que piensan las
personas de mí.
No se imaginan que
todo lo que hice,
lo hice por miedo.³⁵



It doesn't feel good to
know that everyone is
afraid of you. It turns
you into a monster,
which is what they think
of people like me. They
imagine that everything
I did, I did
out of fear.

Our report underscores the need for a complete transformation of the agency's reporting system to truly center the needs and safety of children.

Our Recommendations

1. **Engage child welfare experts, child psychologists, de-escalation and crisis prevention experts, and former unaccompanied children, to inform a new approach to incident reporting;**
2. **Center trauma-informed care in all aspects of its system, in order to prevent and reduce the occurrence of serious incidents;**
3. **Prioritize the use of incident reporting to evaluate and monitor children's needs, staff response, and facility-wide issues that impact children's behavior;**


4. Limit incident reporting to serious incidents and prevent over-reporting

5. Prevent incident reports from being used as a form of discipline or punishment and instead conduct a holistic review of a child's file and needs when making placement or reunification decisions;

6. Implement safeguards to ensure that children have an opportunity to be heard on incident reports, including promptly notifying and providing copies of SIRs to the child, the child's attorney, and their child advocate, if one has been appointed;

7. Prevent the disclosure of SIRs and other confidential information in children's files to the Department of Homeland Security and other agencies that is contrary to children's best interests.

What Can You Do?

- ORR changes its policy on SIRs regularly and is expected to roll out **new regulations** regarding its care and custody of unaccompanied children
 -  Stay tuned for opportunities in the future to weigh in with comments to ORR on the harm of SIRs and the need for an overhaul of ORR's incident reporting system that is part of a comprehensive trauma-informed system focused on serving children's needs.
- If you serve unaccompanied children, use our report as a resource and educational tool to provide the systemic context for their use and adverse impact.

Questions?

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FULL REPORT:

<https://www.theyoungcenter.org/overhaulsirreports>