



GRANTMAKERS CONCERNED WITH IMMIGRANTS AND REFUGEES

A LONG AND DANGEROUS ROAD: HOW FUNDERS CAN RESPOND TO THE SURGE OF UNACCOMPANIED CHILDREN MIGRATING TO THE UNITED STATES

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Wednesday, July 9, 2014

Dial-in: **866-740-1260**; Access Code: **8244374**

DARANEE PETSOD, GCIR



Daranee Petsod, executive director of Grantmakers Concerned with Immigrants and Refugees (GCIR), has worked on social and economic justice issues for more than 25 years. Prior to joining GCIR in 1998, she was a program and communications consultant for foundations and nonprofits. Daranee previously held leadership positions at the Illinois Coalition for Immigrant and Refugee Rights and was a program officer at the Field Foundation of Illinois, Inc. and the Sophia Fund. She has served on the boards of the Donors Forum and the Heartland Alliance, both in Chicago, and the Asian American Justice Center in Washington, D.C.

Tara Magner works in the policy research area of the MacArthur Foundation's U.S. programs. She previously served as senior counsel to the chairman of the U.S. Senate Committee on the Judiciary, Senator Patrick Leahy of Vermont, from 2009 to 2012. After the 2008 election, Ms. Magner was a member of President Obama's Transition Policy Working Group on Immigration. Previous positions include commissioner on the American Bar Association's Commission on Immigration, director of policy at the National Immigrant Justice Center in Chicago, and counsel and professional staff member to Senator Leahy on the Committee on the Judiciary. Ms. Magner earned a B.A. at Wesleyan University and a J.D. at Georgetown University Law Center.



TARA MAGNER, THE MACARTHUR FOUNDATION

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MEETING AGENDA

- **Welcome, Introductions, and Context Setting**

- *Daranee Petsod, President, GCIR*
- *Tara Magner, Program Officer, MacArthur Foundation*
- *Dr. Robert K. Ross, President and CEO, The California Endowment*

- **Apprehension, Care, Custody, and Release of UACs**

- ***Aryah Somers, Consultant***

- **Legal and Policy Issues**

- *Maria Woltjen, Director, The Young Center for Immigrant Children's Rights*

- **Funders' Perspectives**

- *Betty Balli Torres, Executive Director, Texas Access to Justice Foundation*
- *Tony Banegas, Honorary Consul of Honduras in Phoenix and Philanthropic Advisor, Arizona Community Foundation*
- *Lina Avidan, Program Executive, Zellerbach Family Foundation*

- **Facilitating a Response by Funders**

- *Tara Magner, Program Officer, MacArthur Foundation*

- **Discussion and Q & A**

- **Closing Remarks and Wrap Up**

GOALS AND OBJECTIVES

- Gain an understanding of the current humanitarian crisis involving unaccompanied immigrant children.
- Hear about the current processes of apprehension, care, custody, and release as well as key legal and policy issues.
- Discuss the role of philanthropy in responding to the needs of this population.

Dr. Robert K. Ross is president and chief executive officer for The California Endowment, which during his tenure has focused on the health needs of underserved Californians. He previously served as director of the Health and Human Services Agency for San Diego County and Philadelphia's Commissioner of Public Health. Dr. Ross has served on numerous boards and commissions, including the President's Summit for America's Future. He has received numerous honors, including being named one of the 50 Most Influential Non-Profit Leaders in America by the NonProfit Times. Dr. Ross earned an MPA and M.D. from the University of Pennsylvania.

DR. ROBERT K. ROSS, THE CALIFORNIA ENDOWMENT



Aryah Somers is an independent consultant and researcher on children's rights and migration policy. She was a co-author of "Children on the Run," a MacArthur Foundation-funded report by UNHCR on unaccompanied children from Central America and Mexico to the United States. She has served as a consultant to CAMMINA on a project mapping organizations serving migrant children in Central America and as a Fulbright Scholar in Guatemala. She has previously worked as a staff attorney at The Door; a senior program associate at the Vera Institute of Justice in the Unaccompanied Children Pro Bono Program; and a consultant on refugee children for UNHCR/Ecuador. Ms. Somers earned a J.D. from Georgetown University Law Center and an M.A. in Arab studies from Georgetown University.

ARYAH SOMERS, CONSULTANT



Briefing on Unaccompanied Children

M. Aryah Somers, J.D., M.A.
Consultant
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WHO ARE UNACCOMPANIED CHILDREN?

- Children
 - “Unaccompanied alien children” defined in federal legislation (Homeland Security Act of 2002):
 - ✓ Children under the age of 18
 - ✓ Without lawful immigration status
 - ✓ Whose parent or legal guardian is not in the US or is unable or unwilling to provide care and physical custody
 - Refugees and asylumseekers
-

WHO ARE UNACCOMPANIED CHILDREN?

- Unaccompanied children have been part of our country historically, and we can and should continue to be leaders in child protection
 - Unaccompanied children are also undetected as:
 - ✓ Children trafficked for sale, prostitution or pornography
 - ✓ Farmworkers and other forms of child labor
 - ✓ Children who never enter school or fall within any legal system in the US
 - ✓ Homeless children
-

DEMOGRAPHIC SNAPSHOT OF UNACCOMPANIED CHILDREN UP UNTIL FY2012

	Referred Placements FY 07 - FY 12					
COUNTRY OF BIRTH	FY 07	FY 08	FY 09	FY 10	FY 11	FY12
ECUADOR	100	222	180	268	156	260
EL SALVADOR	1995	1600	1528	2157	1622	3,694
GUATEMALA	2115	1844	1674	1932	2051	4646
HONDURAS	2091	1981	1378	1277	1201	3,618
MEXICO	678	711	1067	1490	1392	1,108
NICARAGUA	79	48	29	40	18	53
OTHER	339	252	236	1046	414	246
Total Referred	7397	6658	6092	8210	6854	13625

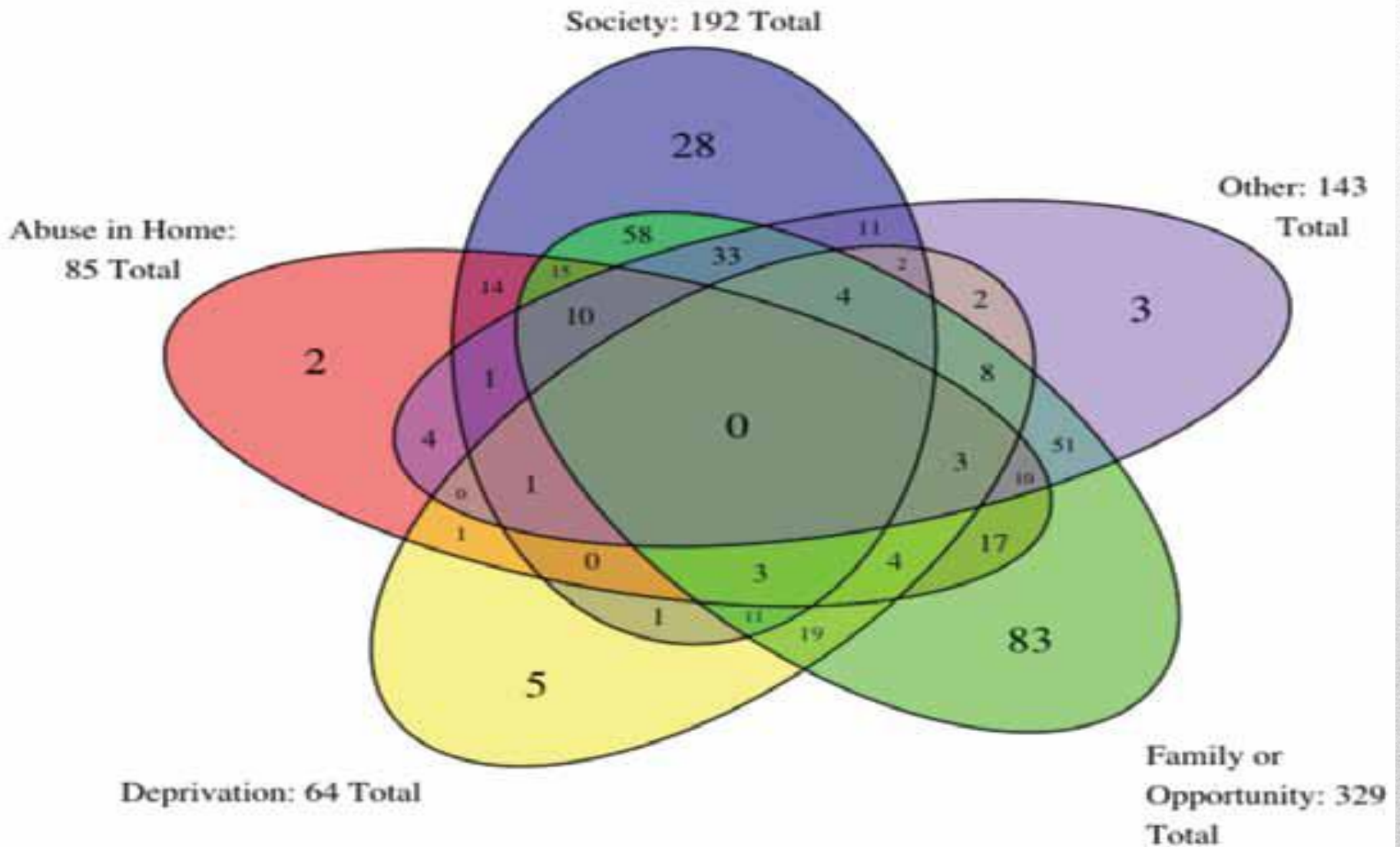


Humanitarian crisis for children as they flee across the region in search of protection.

In 2013 in the US: 24,668 unaccompanied children.

In 2014 in the US: 60,000 unaccompanied children expected.

CHILDREN'S REASONS FOR LEAVING HOME UNHCR, CHILDREN ON THE RUN REPORT



<http://www.unhcrwashington.org/children>

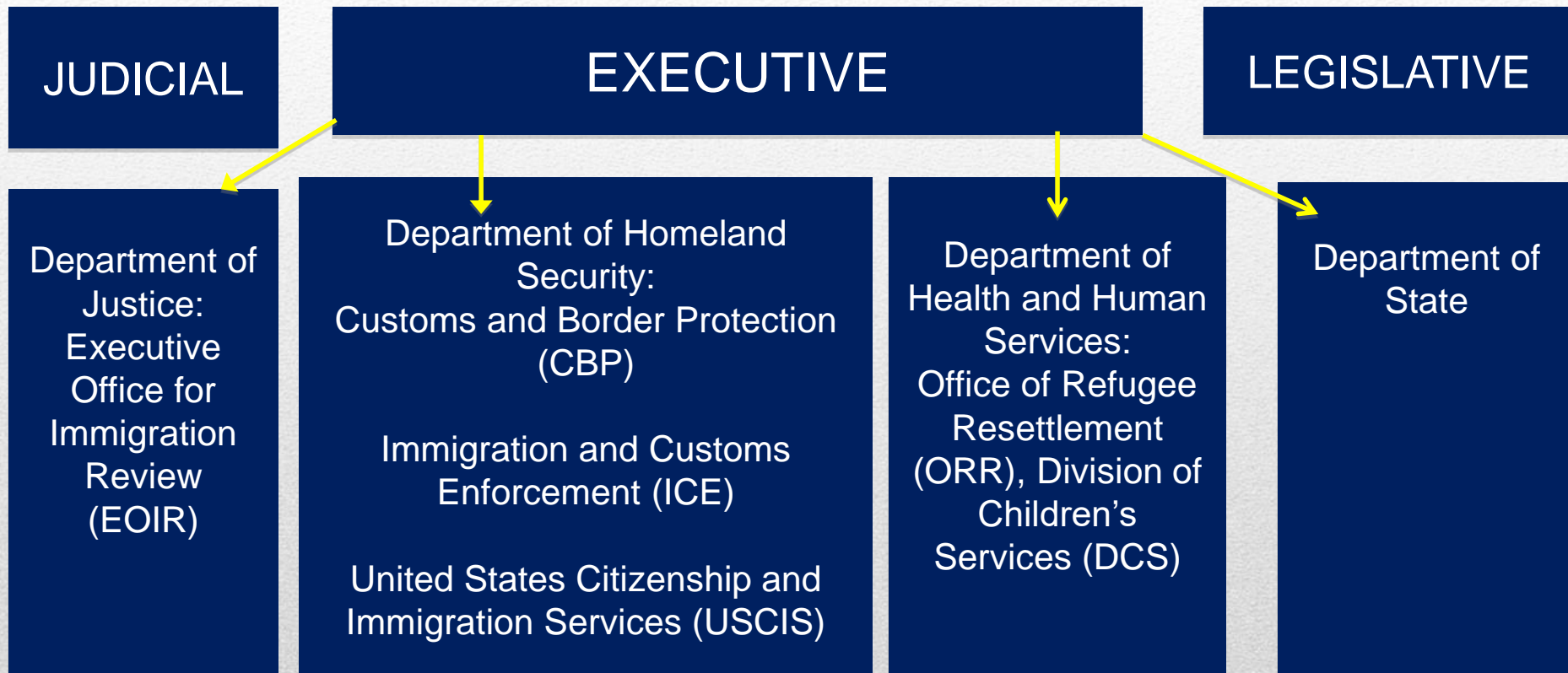
HISTORICAL CONTEXT OF SYSTEM FOR CARE AND CUSTODY OF UNACCOMPANIED CHILDREN

- Prior to 2002, the Immigration and Naturalization Service (INS) in charge of care and custody of children apprehended at the border and ports of entry
 - **Homeland Security Act of 2002:**
 - Created Department of Homeland Security (DHS) and abolished INS
 - Defined “unaccompanied alien children”
 - Changed responsibility for the care and custody of “unaccompanied alien children” to HHS/ORR/Division of Children’s Services (“DCS”)
-

HISTORICAL CONTEXT OF SYSTEM FOR CARE AND CUSTODY OF UNACCOMPANIED CHILDREN

- **William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA of 2008”):**
 - Additional child protection provisions related to placement, care, custody, home studies and follow-up services for unaccompanied children
 - Identification of best practices for repatriation and reintegration
- **Class Action Lawsuits:**
 - The Flores Stipulated Settlement Agreement, 1997 (Conditions of Custody)
 - Perez-Funez, 1985 (Due process)
 - Perez-Olano, 2010 (age-out protections for special immigrant juvenile status)

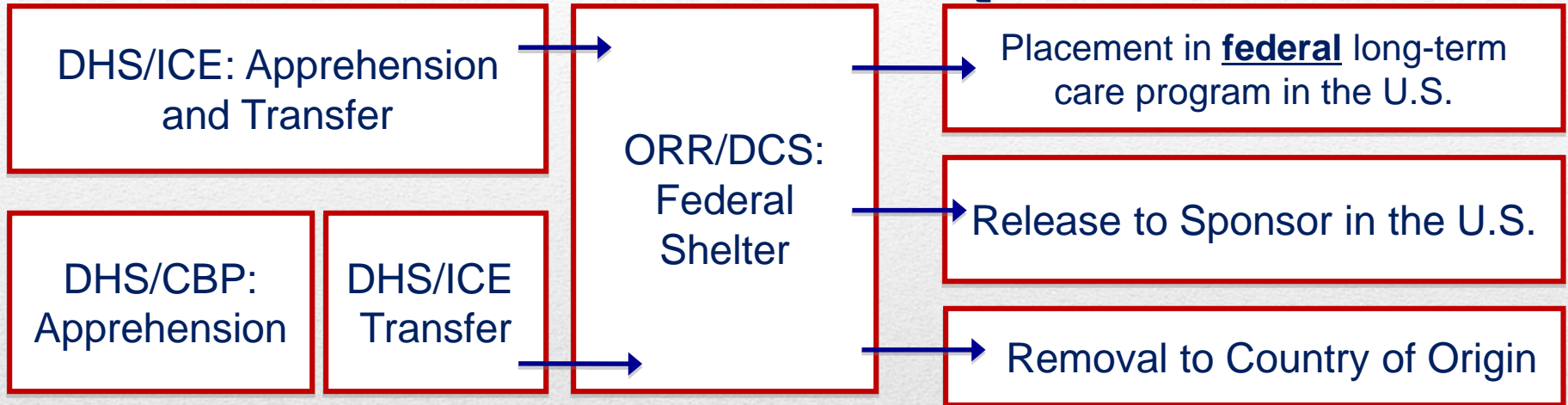
U.S. FEDERAL AGENCIES AND UNACCOMPANIED CHILDREN



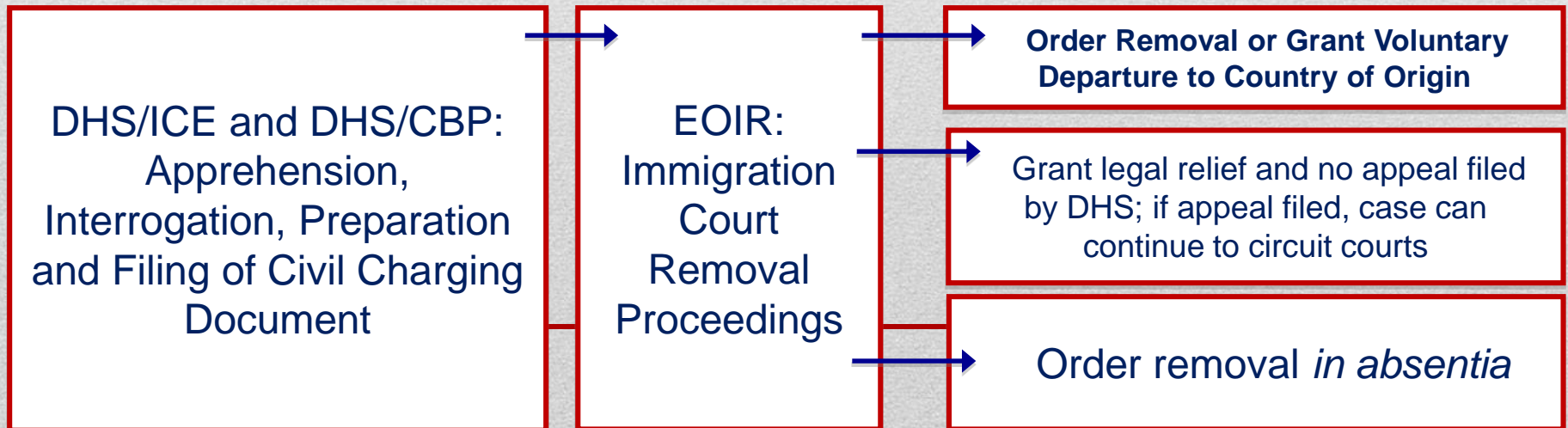
On June 2, 2014, FEMA was authorized by Presidential Memorandum to coordinate a response to the humanitarian crisis at the border. The US Department of Defense authorized the use of military bases to house unaccompanied children.

FEDERAL SYSTEM: WHAT UNACCOMPANIED CHILDREN ENCOUNTER

CUSTODIAL STRUCTURE UNIQUE TO UAC:



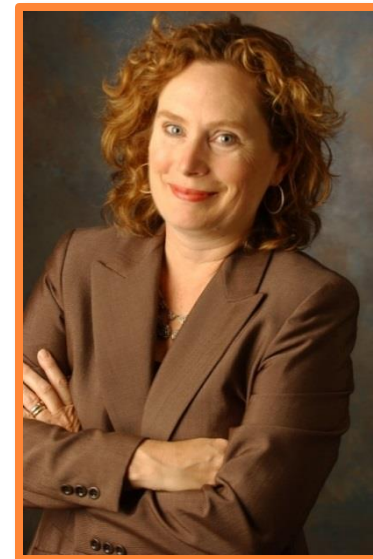
REMOVAL STRUCTURE FOR ADULTS AND CHILDREN:



KEY CONCERNS: SCREENING AND RELEASE OF UNACCOMPANIED CHILDREN

- Providing Know Your Rights information and legal screenings for preliminary referral to post-release legal services organizations while children are in-custody
 - Providing support to existing capable legal services organizations in the southern border region to support attorney representation for children in federal custody
 - Support for projects for community-based integration, such as culturally-informed trauma and mental health services, case management services, educational models for students with interrupted education, and child labor rights information
 - Access to data on post-release locations to ensure an opportunity to build response and support systems and support research on long-term outcomes
-

Maria Woltjen is the director and founder of the Young Center for Immigrant Children's Rights at the University of Chicago Law School, where she is also a law professor and directs a clinic for law and social work students. The Young Center's advocates for the best interests—safety and well-being—of unaccompanied and separated immigrant children. She has previously worked at the ChildLaw Center at Loyola University of Chicago School of Law; the Children's Advocacy Project of the Chicago Lawyers' Committee for Civil Rights; and the law firm of Coffield Ungaretti Harris & Slavin. Ms. Woltjen serves on boards and committees in the immigration field, including the Inter Agency Working Group on Unaccompanied Children. She earned her J.D. from the Loyola University of Chicago School of Law.



MARIA WOLTJEN, THE YOUNG CENTER FOR IMMIGRANT CHILDREN'S RIGHTS

July 2014
Update on Policy
and Legal Issues for
Unaccompanied Immigrant Children:

WHAT IS THE SITUATION TODAY?

Comparison of State Juvenile Systems and Immigration Courts

CHILD PROTECTION & JJ

IMMIGRATION COURT

State law statutory best interest standard

Special judges for children's court

Statutes and regulations specific to children's cases

Body of case law specific to children's cases

No statutory best interests standard in Immigration and Nationality Act (INA)

No special judges for children

No INA or regulations specific to immigrant children

No body of case law governing children's cases

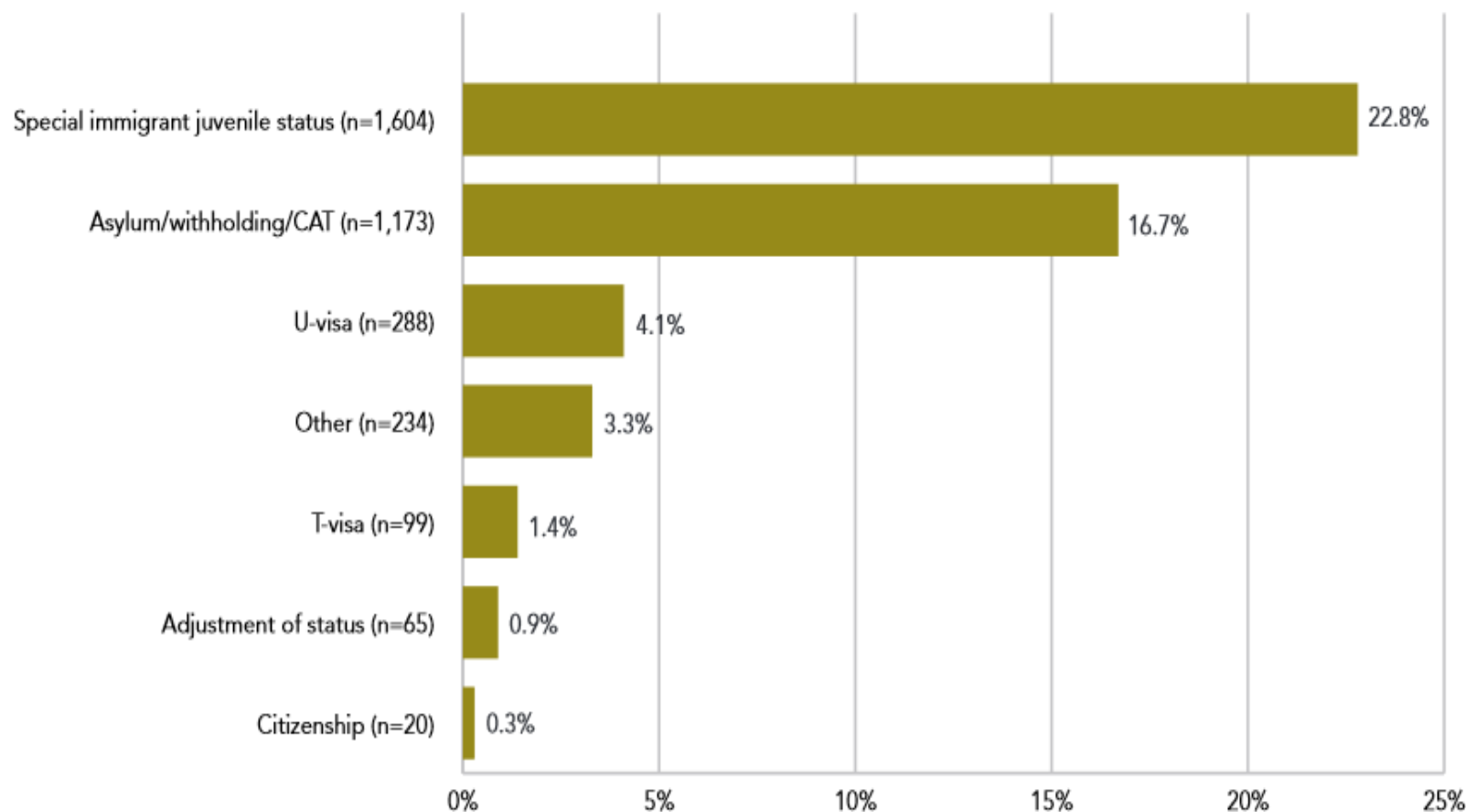
Systemic Challenges for Children in Immigration Proceedings

- No guarantee of legal representation
- Child has the burden of proving eligibility. Must establish elements of asylum: well founded fear of persecution on account of race, religion, nationality, political opinion, social group.
- Child claims don't fit neatly: gap cases
- Nearly impossible for child to access relief without an attorney
- There is provision in law re: safe repatriation, but in reality, safety is not assessed before child is returned.

Practical Challenges for Children Applying for Status

- Legal services reliant on private funding to directly represent children
- Pro Bono attorneys not able to take all types of cases
- Legal services providers have to triage cases
- Child must disclose enough information during screening to constitute claim
- Children appearing pro se (without a lawyer)

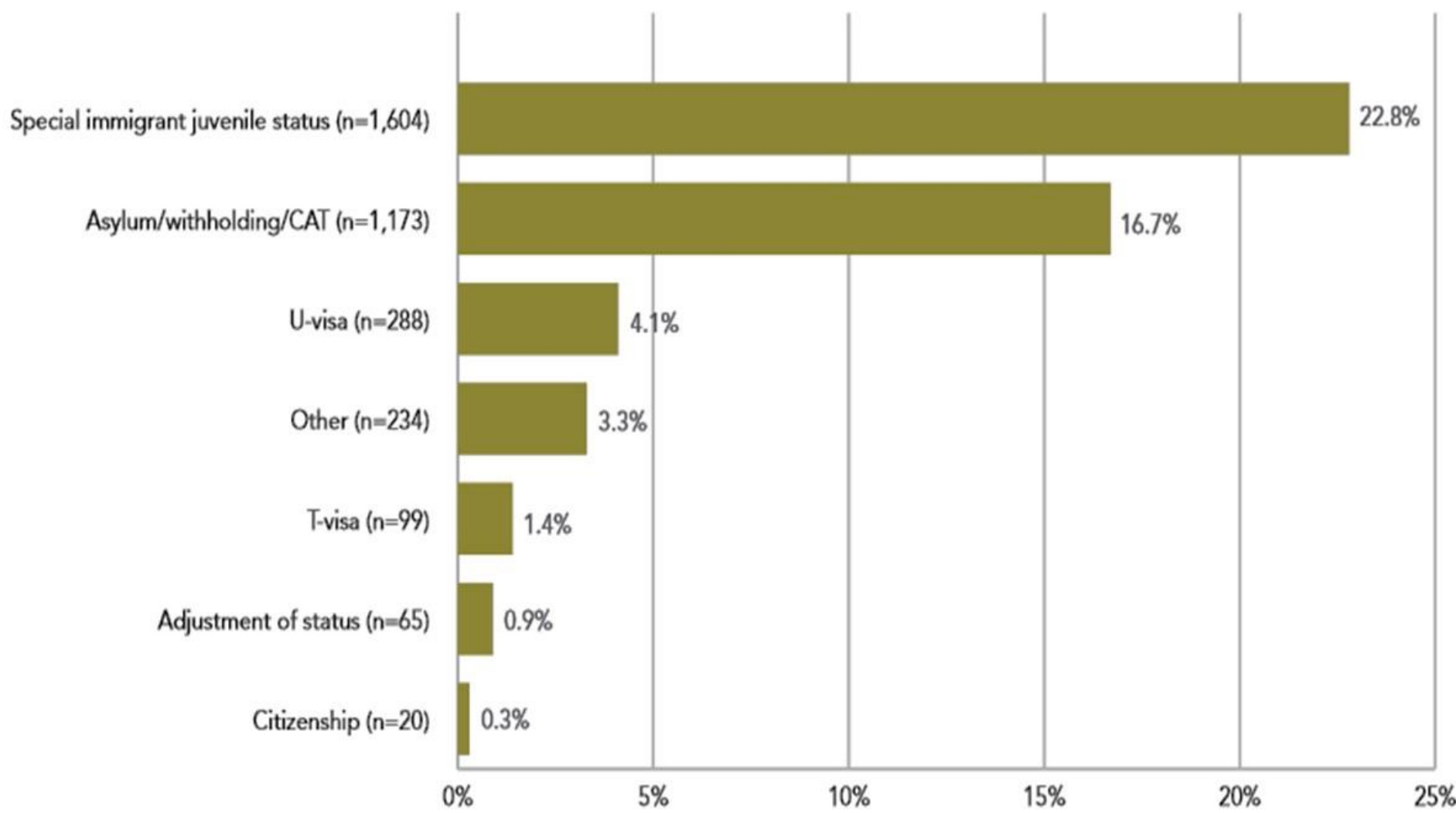
Figure 10: Types of Potential Relief from Removal for Children Screened by DUCS Legal Access Project Providers, January 1 Through December 31, 2010*



Data source: Vera subcontractor data from Vera's DUCS Legal Access Project

* Among 7,020 unique children the project served in 2010, 2,830 were eligible for some type of potential relief from removal. Because many children were eligible for more than one type of potential relief, the number of instances of potential relief was greater than the number of eligible children. The percentages shown are based on the number of unique children served.

Figure 10: Types of Potential Relief from Removal for Children Screened by DUCS Legal Access Project Providers, January 1 Through December 31, 2010*



Policy Developments

- Children's Immigration Courts—special dockets for detained and released children
- Legal Representation Pilot
- Best interests framework

Policy Reforms still Needed

- Legal representation for all children
- Develop child-appropriate Children's Immigration Courts
- Independent Child Advocates (best interests guardians *ad litem*) for all children
- Implementation of best interests framework
- Ensure safe repatriation of any child returned to home country

Maria Woltjen

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FUNDERS' PERSPECTIVES

- **Betty Balli Torres**, Executive Director with the Texas Access to Justice Foundation (Austin, TX)
- **Tony Banegas**, Honorary Consul of Honduras in Phoenix and Philanthropic Advisor with the Arizona Community Foundation (Phoenix, AZ)
- **Lina Avidan**, Program Executive with the Zellerbach Family Foundation (San Francisco, CA)

FACILITATING A RESPONSE BY FUNDERS

➤ **Expand Access to Legal Services**

- Scale up immigration legal services
- Recruit, train, support pool of *pro bono attorneys*
- New federal pilot program “justice AmeriCorps”

➤ **Bolster Legal Resources**

- Create emergency legal teams
- Expand access to child advocates
- Create a panel of pro bono/low-fee experts to provide medical information
- Develop country conditions evidence and state specific information for immigration cases
- Ensure availability of interpreters, including those fluent in indigenous languages of Mexico and Central America
- Expand training for migration judges and asylum officers

FACILITATING A RESPONSE BY FUNDERS

➤ **Direct Services**

- Fund humanitarian support
- Support human rights monitoring
- Support “wrap-around services”
- Support training for the staff of ORR shelter programs
- Create interagency networks of schools, social services, and legal services
- Fund mental and physical health services

➤ **International**

- Support migrant shelters and welcoming centers
- Fund efforts to address the drivers of migration in countries of origin
- Support programs in countries of origin to: review claims for asylum; train immigration officials on migrant care; develop child advocate programs; provide services for youth at-risk for gang recruitment

FACILITATING A RESPONSE BY FUNDERS

➤ **Communications**

- Support efforts to align communications and advocacy strategies
- Support a media campaign to educate the public
- Fund programs that educate the media

➤ **Policy Advocacy**

- Support the development of policy recommendations and advocacy for:
 - Systemic restructuring
 - Lessons from juvenile court systems with more advanced child-sensitive procedures
 - Asylum regulations
 - Alternatives to detention
 - Collection and release of data
 - Systems of protection

FACILITATING A RESPONSE BY FUNDERS

Check out GCIR's new
briefing on additional
ways for funders to
respond available on our
website:

The Surge in Arrivals of Unaccompanied Immigrant Children: Recommendations for Philanthropic Response



JUNE 25, 2014

This document identifies grantmaking opportunities that foundations might consider in shaping both a rapid response and a longer-term funding strategy.

Overview

The humanitarian crisis of unaccompanied immigrant children, as well as families with children, arriving on the Southern border of the United States merits urgent philanthropic response. Yet many foundations are unfamiliar with the needs of this growing population. This document (a work-in-progress that will be updated periodically) identifies grantmaking opportunities that foundations—from those funding immigration matters to those addressing health and human services or supporting children, youth, and families—might consider in shaping both a rapid response and a longer-term funding strategy. While unaccompanied immigrant children urgently need a range of services under this crisis situation, many of these children will wait years for an immigration court hearing and for their cases to be resolved. Therefore, their needs—and the need to address root causes, inform the general public, and craft policy solutions—will extend beyond the immediate term.

Immediate and ongoing priorities include legal representation and related legal resources, a full range of direct services, and monitoring of all detention facilities to ensure that basic needs are met and legal rights are protected. Communications and policy advocacy, along with evaluation and research, are also important. Each of these opportunities is detailed below. In addition, funders can convene their foundation peers to discuss coordinated funding strategies, as well as bring together various stakeholder groups to craft a comprehensive strategy for responding to this humanitarian crisis with their sectors or geographic regions.

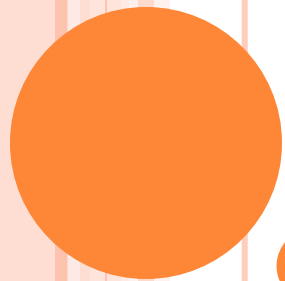
Funding Opportunities

I. Legal Services

A. Expand Access to Legal Counsel

- ③ *Scale up immigration legal services*, building upon existing infrastructure and expanded capacity developed in response to [Deferred Action for Childhood Arrivals \(DACA\)](#).
- ③ Recruit, train, support, and build a robust pool of *pro bono attorneys* to leverage private-sector resources and augment the limited capacity of nonprofit legal services providers.
- ③ Support a *new federal pilot program*, “*Justice AmeriCorps*,” which appoints counsel to unaccompanied child migrants. Leverage federal dollars by enhancing the overall compensation package (housing, food, loan repayment) for AmeriCorps members; helping to train, supervise, and manage the program; providing technical assistance to grantees and members; and supporting access to counsel for children over age 15 who are not covered by the program. This program can be a resource both in the immediate and the long term.





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FUNDER DISCUSSION AND Q & A

Learn. Connect. Share.



CLOSING REMARKS AND WRAP UP

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FOR FURTHER INFORMATION AND/OR TO JOIN A
FOLLOW-UP CALL ON FUNDING OPPORTUNITIES
PLEASE CONTACT:

o **Harmony Karp Hayes**

Director of Programs, GCIR

Email: harmony@gcir.org

Please complete our two-minute survey and help inform GCIR's future programming and resources!

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