



## Amnesty International Visit to Homestead Facility (April 2, 2019)

On 2 April 2019, a team of Amnesty International (“AI”) researchers visited the temporary influx shelter for unaccompanied children at Homestead, Florida (“Homestead” or “emergency shelter”).<sup>1</sup> AI interviewed Homestead staff and toured the facility. Although AI did not interview children at Homestead, AI observed them in classrooms, the cafeteria, residential areas, common areas, and outside on the grounds.

In addition to the visit to Homestead, Amnesty International visited two nearby permanent shelters for unaccompanied children.<sup>2</sup> AI interviewed staff at each shelter for a total of 4.5 hours, toured the facilities, and interviewed children who had stayed at Homestead in 2018 and 2019 for periods ranging from one day to eight months.

AI observed a stark difference between the permanent, state-licensed shelters and Homestead: the nearby permanent shelters are small-care settings (typically under 100 or 200 children) centered around individualized child care, and are required to follow the 1997 *Flores* Agreement (“*Flores*”)<sup>3</sup> standards for permanent shelters and its underlying principle to ensure the best interests of the child.<sup>4</sup> AI is concerned that Homestead places children in a large-scale, highly regimented institutional facility that does not center its care model on what is in the best interests of the child.

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<sup>1</sup> Homestead is part of a network of shelters for unaccompanied children housed under the care of the Office for Refugee Resettlement (“ORR”), an agency within the Administration for Children and Families (“ACF”) of the U.S. Department for Health and Human Services (“HHS”). These shelters are not run by the U.S. Department of Homeland Security (“DHS”), though the children at Homestead come directly from the border once Customs and Border Protection (“CBP”) processes their cases. There are approximately 100 permanent ORR shelters for unaccompanied children in addition to the Homestead temporary influx care facility.

<sup>2</sup> Due to privacy and security concerns for unaccompanied children at ORR shelters, AI is not disclosing the names of the two shelters visited. Although media articles have listed the names of ORR shelters for unaccompanied children, ORR does not publicly disclose the full list of these shelters.

<sup>3</sup> The 1997 *Flores* Settlement Agreement (“*Flores*”) set U.S. standards regarding the custody and detention, release, and treatment of migrant children – whether unaccompanied or accompanied. It is based on two principles: the best interests of the child and family unity. *Flores* directs the government to implement minimum standards for the care of migrant children in custody and detention. *Flores v. Lynch*, No. CV 85-04544 DMG (Ex) (C.D. Cal. Aug. 21, 2015) at 9, available at <https://www.aila.org/File/Related/14111359p.pdf>.

<sup>4</sup> All 50 states, the District of Columbia, and U.S. territories require consideration of a child’s best interests in decisions about the child’s custody. See Child Welfare Information Gateway, *Determining the Best Interests of the Child* (2012), [https://www.childwelfare.gov/pubPDFs/best\\_interest.pdf](https://www.childwelfare.gov/pubPDFs/best_interest.pdf). The best interest standard has been increasingly incorporated into immigration law and policy. Congress has incorporated the best interests of the child standard into multiple immigration law provisions respecting children. See, e.g., 8 U.S.C. § 1101(a) (27)(J) (incorporating a best interests finding into eligibility standards for special immigrant juveniles); Immigration and Naturalization Service, *Guidelines for Children’s Asylum Claims* at 2, 6, 9 (Dec. 10, 1998) (applying “the internationally recognized ‘best interests of the child’ principle” to interview procedures for child asylum-seekers). Under a 2008 Congressional mandate, federal agencies that take unaccompanied children into custody must place them in the least restrictive setting that is in their best interests. 8 U.S.C. § 1232(c)(2). The United States signed the Convention on the Rights of the Child (“CRC”) in 1995, though is the only country in the world that has not yet ratified it. As a signatory to the CRC, the United States is still prohibited under customary international law from acts that would defeat the object and purpose of treaty. See Article 9 of the CRC, which specifically prohibits separating a child from its parents unless in exceptional circumstances not present in this case: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

Amongst other concerns, AI is gravely concerned that Homestead does not follow the best interests of the child because<sup>5</sup>:

- 1) the Homestead facility provides care in a large-scale, industrial setting with thousands of children adhering to highly regimented schedules that deprive them of individualized care, attention, and freedom to be children in age-appropriate ways, which in turn creates a sense of being held in secure detention;
- 2) children are held in custody for prolonged periods of time;<sup>6</sup>
- 3) the facility provides a sub-standard level of education; and
- 4) the facility does not ensure adequate privacy for children to report allegations of sexual abuse, nor does it adequately report on allegations of sexual abuse made by unaccompanied children held there.

Amnesty International seeks urgent Congressional oversight of the Homestead influx shelter, to ensure the best interests of unaccompanied children and to ensure that the *Flores* standards and international human rights standards are met; and that emergency shelters do not become the default standard of care for unaccompanied children.

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<sup>5</sup> For discussion of key elements of the best interest of the child principle (such as safety and well-being; liberty; health; family integrity; and education) and international human rights standards on the detention of children and children's rights, *see generally*, Amnesty International USA, *Why Am I Here? Children in Immigration Detention* (June 2003); Subcommittee on Best Interests of the Interagency Working Group on Unaccompanied and Separated Children, *Framework for Considering the Best Interests of Unaccompanied Children* (May 2016), available at <https://static1.squarespace.com/static/597ab5f3bebafb0a625aaf45/t/5c19cb386d2a738d43742361/1545194298896/Best-Interests-Framework.pdf>.

<sup>6</sup> Amnesty International has grave concerns that the prolonged length of stay for unaccompanied children at the Homestead facility, and other ORR shelters for unaccompanied children, is substantially due to a Memorandum of Understanding ("MOU") that ORR signed in April 2018 with the U.S. Department of Health and Human Services ("HHS") and the U.S. Department of Homeland Security ("DHS"), requiring ORR to share information on unaccompanied children from "the time of referral from CBP [Customs and Border Protection] or ICE [Immigration and Customs Enforcement] to ORR; while in the care and custody of ORR, including in the vetting of potential sponsors and adult members of potential sponsors' households; and upon release from ORR care and custody," which has resulted in fewer sponsors coming forward because of their immigration status or those in their households. Memorandum of Agreement Among the Off. of Refugee Resettlement of the U.S. Dep't of Health & Hum. Services and U.S. Immigr. and Customs Enf't, U.S. Customs and Border Prot. of the U.S. Dep't of Homeland Sec. Regarding Consultation and Information Sharing in Unaccompanied Alien Children Matters ("MOA"), available at <https://www.texasmonthly.com/wp-content/uploads/2018/06/Read-the-Memo-of-Agreement.pdf>; *see* Women's Refugee Commission and National Immigrant Justice Center, *Children as Bait: Impacts of the ORR-DHS Information-Sharing Agreement* (March 2019), available at <https://www.womensrefugeecommission.org/images/zdocs/Children-as-Bait.pdf>.

When AI visited the Homestead facility on 2 April, the average length of stay for unaccompanied children was 64 days. It had been 89 days, prior to ORR's memo of 23 March 2019 directing that parents (Category 1 sponsors) immediately were no longer to be subject to policy requiring fingerprints of sponsors. ORR Operational Directive: March 2019 (23 March 2019) (implementing an operational directive concerning the MOA that "[e]ffective immediately, **Category 1 sponsors no longer require a fingerprint background check** as part of the sponsor assessment process unless a public records check reveals possible disqualifying information; there is a documented risk to the safety of the child; the child is especially vulnerable; or, the case is being referred for a home study.") (emphasis in original).

Amnesty International calls on the Trump Administration to close Homestead as quickly as possible and to prioritize funding for permanent, small-care, state-licensed facilities that comply with *Flores* and international human rights standards, where unaccompanied can be placed before they are released to sponsors as expeditiously as possible.

### Recommendations

- Congress should increase oversight over the emergency shelter system, and the Homestead temporary influx care facility, to demand greater accountability for providing a safe environment for unaccompanied children and care based on the best interests of the child. As part of its oversight, relevant committees in both the House and Senate should urgently conduct public hearings on the conditions at the Homestead temporary influx care facility, as well as review the extended usage of such emergency shelters since January 2018.
- The Administration should move to close the Homestead temporary influx care facility as soon as possible, and Congress should prioritize funding for permanent, small-scale, state-licensed facilities that comply with the *Flores* standards and international human rights standards and are more appropriate settings for children.
- As the Administration moves to close the Homestead temporary influx care facility, the facility should be held to the standards outlined in *Flores* that all permanent shelters must follow and should be licensed by the state of Florida. It must also adhere to human rights standards governing the best interests of the child, the custody and detention of children, and children's rights.
- The Administration and Congress should provide the resources and adequate staffing support to ensure that children are placed with appropriate sponsors as quickly as possible. The information-sharing agreement between ORR and DHS should be rescinded immediately. Whenever possible, all effort should be made to place unaccompanied children as close to their potential sponsors as possible.

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