

Referred to DHS

Stevens v. BBG et al., 18-cv-5391
DHHS
HHS-18-F-0210
<https://deportationresearchclinic.org/>

State Department document

State Department document

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State Department document

State Department document

Referred to DHS

From: Velazquez, Ivonne (ACF) [mailto:Ivonne.Velazquez@ACF.hhs.gov]
Sent: Tuesday, April 3, 2018 3:46 PM
To: (b)(6);(b)(7)(F) <(b)(6);(b)(7)(F)@ice.dhs.gov>; De LA Cruz, James (ACF) <James.DeLACruz@acf.hhs.gov>; Smith, Elicia (ACF) <Elicia.Smith@acf.hhs.gov>
Cc: (b)(6);(b)(7)(F) <(b)(6);(b)(7)(F)@ice.dhs.gov>; (b)(6);(b)(7)(F) <(b)(6);(b)(7)(F)@ice.dhs.gov>; (b)(6);(b)(7)(F) <(b)(6);(b)(7)(F)@ice.dhs.gov>
Subject: [WARNING: MESSAGE ENCRYPTED][WARNING: MESSAGE ENCRYPTED]RE: (b)(6)
(b)(6) (b)(6)
Importance: High

Dear Officer (b)(6);(b)(7)(F)

Attached you will find the document that the Ms Villarreal sent DHS and ORR after Mr (b)(6) was transferred in to DHS custody. Ms. Villarreal informed me that she obtained the documents via the mail from the the alleged uncle who she made contact with via Facebook.

When the individual in question was in ORR care he never provided us any information about his family and claimed that he didn't remember how old he was. Attached you will find the age determination memo that was sent to DHS

ORR does not have the resources to authenticate the document that Ms Villarreal sent ORR and DHS with the Afghan Government.

ORR will like to know if DHS could utilize their networks to verify that this document is authentic and belongs to the individual in care. If DHS determines that this individual is a minor, they should refer him into ORR care via intakes.

Please let me know if you have any more questions or concerns.

Ivonne

Ivonne Velazquez, LCSW

Federal Field Specialist Supervisor
United States Department of Health and Human Services
Administration of Children and Families
Office of Refugee Resettlement
Division of Unaccompanied Children Operations
Cell: (b)(6)
<http://www.acf.hhs.gov/programs/orr>

Referred to DHS

Referred to DHS

Referred to DHS

From: De LA Cruz, James (ACF) [mailto:James.DeLACruz@acf.hhs.gov]
Sent: Thursday, March 29, 2018 6:43 PM
To: (b)(6);(b)(7)(F)@ice.dhs.gov; Smith, Elicia (ACF) <Elicia.Smith@acf.hhs.gov>
Cc: (b)(6);(b)(7)(F)@ice.dhs.gov; (b)(6);(b)(7)(F)@ice.dhs.gov; Velazquez, Ivonne (ACF) <Ivonne.Velazquez@ACF.hhs.gov>; (b)(6);(b)(7)(F)@ice.dhs.gov; (b)(6);(b)(7)(F)@ice.dhs.gov
Subject: Re: (b)(6) (b)(6) (b)(6)

Apologies for the last message. I am on the subway in NY and typing while moving. Below is a complete message.

Hello all, please let's put a pause in moving forward with a referral until ORR discusses this case internally. I have instructed intakes to not accept this UAC until we in ORR have more facts about the BC and how it was verified. Tomorrow we will update DHS about this case.

Jsd

On: 29 March 2018 21:37, "De LA Cruz, James (ACF)" <James.DeLACruz@acf.hhs.gov>wrote:

Hello all, please let's put a pause in. Moving forward until ORR discusses this internally. I have instructed intakes to not accept this UAC until We in ORR have more facts about the BC and how it was verified. Tomorrow we will update DHS

Referred to DHS

From: Smith, Elicia (ACF) <Elicia.Smith@acf.hhs.gov>
Date: Thursday, Mar 29, 2018, 4:42 PM
To: (b)(6);(b)(7)(F)@ice.dhs.gov
Cc: (b)(6);(b)(7)(F)@ice.dhs.gov, (b)(6);(b)(7)(F)@ice.dhs.gov, Velazquez, Ivonne (ACF) <Ivonne.Velazquez@ACF.hhs.gov>, De LA Cruz, James (ACF) <James.DeLACruz@acf.hhs.gov>
Subject: FW: (b)(6) (b)(6) (b)(6)

Hello Officer (b)(6);(b)(7)(F)

Does DHS plan on referring this individual back into ORR care based on the new information provided by Ms. Villarreal? I discussed this case with ICE FOJC Officer (b)(6);(b)(7)(F) a few weeks ago and explained that DHS would need to make an ORR referral if they believe they have a minor in adult detention.

Regards,
Elicia

Elicia Smith
Federal Field Specialist
U.S. Department of Health & Human Services
Administration for Children & Families
Office of Refugee Resettlement
Division of Unaccompanied Children Operations
San Francisco, CA
Email: elicia.smith@acf.hhs.gov
Mobile: (202) (b)(6)

From: Mariel Villarreal (b)(6) [mailto:(b)(6)@pangealegal.org]
Sent: Thursday, March 29, 2018 1:44 PM
To: (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) Smith, Elicia (ACF) <Elicia.Smith@acf.hhs.gov>; Velazquez, Ivonne (ACF) <Ivonne.Velazquez@ACF.hhs.gov>
Subject: (b)(6) (b)(6) (b)(6)

Dear Officer (b)(6);(b)(7)(F) Ms. Smith, and Ms. Velasquez,

I am writing to follow-up with you on my requests to please release my minor client, (b)(6) (b)(6) who has been in an adult detention facility for over three months now, or at the very least, to transfer him back to an ORR facility with children his own age.

I have not yet heard from either of your offices regarding his status as a minor after sending you his Afghan identity document confirming that he is indeed under 18 years old.

(b)(6) is suffering tremendously. He has expressed fear of being detained with adults to the immigration judge, and he cries and pleads with me every time we speak, saying he does not understand why he is being kept with adults and that he is scared and depressed in adult detention.

I have reached out to the offices of Senator Feinstein and Senator Harris for assistance in (b)(6) case. I am hoping that your offices can please correct this situation urgently, as (b)(6) continues to deteriorate in adult detention.

Thank you for your prompt attention to this matter. Please feel free to call me at (b)(6)

Sincerely,

--

Mariel Villarreal
Immigration Attorney
Pangea Legal Services

Ph: (415) (b)(6)

Fax: (415) 593-5335

350 Sansome St, Suite 650, San Francisco, CA 94104
The Sobrato Center for Nonprofits, 538A Valley Way, Building 3, Milpitas, CA 95035

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Attorney/Client Privilege - Attorney Work Product

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Recipient:	(b)(6);(b)(7)(F) (b)(6);(b)(7)(F)@ice.dhs.gov"; Smith, Elicia (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3cdb964ab90d4310bd202c084b7e6097-Smith, Elic>"
Sent Date:	2018/05/04 13:38:35
Delivered Date:	2018/05/04 13:38:32
Message Flags:	Unsent

	(b)(6);(b)(7)(F) @ice.dhs.gov>"; "Smith, Elicia (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3cdb964ab90d4310bd202c084b7e6097-Smith, Elic>"; "Velazquez, Ivonne (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e67b42d96043c688e84fa6cef42570-Velazquez,>"
Subject:	RE: UAC, (b)(6) (b)(6) (b)(6)
Date:	2018/03/13 21:54:31
Priority:	Normal
Type:	Note

Hi,

Based on the information so far I concur with Elicia and Ivonne that this UAC

James S. De La Cruz

DHHS/ACF/ORR/DCS

Senior Federal Field Specialist Supervisor

Office of Refugee Resettlement

Division of Children's Services

Mary E. Switzer Building, 5th Floor (Room: 5223)

330 C Street SW

Washington, DC 20201

Office: 202-690-8477

Cell: (b)(6)

Fax: 202-401-1022

<http://www.acf.hhs.gov/programs/orr/programs/ucs>

Referred to DHS

From: Smith, Elicia (ACF) [mailto:Elicia.Smith@acf.hhs.gov]
Sent: Tuesday, March 13, 2018 5:54 PM
To: (b)(6);(b)(7)(F) De LA Cruz, James (ACF); Velazquez, Ivonne (ACF)
Subject: RE: UAC, (b)(6) (b)(6) (b)(6)

Hi Polly,

Looping in my supervisors to advise.

Thank you,

Elicia

Elicia Smith

Federal Field Specialist

U.S. Department of Health & Human Services

Administration for Children & Families

Office of Refugee Resettlement

Division of Unaccompanied Children Operations

San Francisco, CA

Email: elicia.smith@acf.hhs.gov

Mobile: (202) (b)(6)

Referred to DHS

From: Smith, Elicia (ACF) [mailto:Elicia.Smith@acf.hhs.gov]
Sent: Tuesday, March 13, 2018 5:40 PM
To: Velazquez, Ivonne (ACF); (b)(6);(b)(7)(F) De LA Cruz, James (ACF)
Cc: (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) (b)(6);(b)(7)(F)
Subject: RE: UAC, (b)(6) (b)(6) (b)(6)

Hello All,

Dental Age Redetermination Assessment (79.52%) and DHS Documents: I-877 & I 213 informed this age redetermination. The program was not able to obtain BC or any other documents to verify DOB. Individual reported that he did not know his DOB/age while in care.

Please let me know if you need any further information from me.

Regards,

Elicia

Elicia Smith

Federal Field Specialist

U.S. Department of Health & Human Services

Administration for Children & Families

Office of Refugee Resettlement

Division of Unaccompanied Children Operations

San Francisco, CA

Email: elicia.smith@acf.hhs.gov

Mobile: (202) (b)(6)

From: Velazquez, Ivonne (ACF)
Sent: Tuesday, March 13, 2018 4:11 PM
To: (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) @ice.dhs.gov>; De LA Cruz, James (ACF) <James.DeLACruz@acf.hhs.gov>
Cc: (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) @ice.dhs.gov>; (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) @ice.dhs.gov>; Smith, Elicia (ACF) <Elicia.Smith@acf.hhs.gov>
Subject: Re: UAC, (b)(6) (b)(6) (b)(6)

jim , this is the UAC that we didn't have his BC. that was why we asked for a dental. this is new information for us.

Ivonne Velazquez, LCSW

Federal Field Specialist Supervisor

DHHS/ORR

Division of Unaccompanied Children Operations

(b)(6)

Referred to DHS

From: De LA Cruz, James (ACF) [mailto:James.DeLACruz@acf.hhs.gov]
Sent: Tuesday, March 13, 2018 1:49 PM
To: (b)(6);(b)(7)(F)
Cc: (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) (b)(6);(b)(7)(F) Smith, Elicia (ACF); Velazquez, Ivonne (ACF)
Subject: RE: UAC, (b)(6) (b)(6) (b)(6)

Hello,

Message Received and adding the Supervisor for that region. We will get back to you shortly.

James S. De La Cruz
DHHS/ACF/ORR/DCS
Senior Federal Field Specialist Supervisor
Office of Refugee Resettlement
Division of Children's Services
Mary E. Switzer Building, 5th Floor (Room: 5223)
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Office: 202-690-8477

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<http://www.acf.hhs.gov/programs/orr/programs/ucs>

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Recipient:	(b)(6);(b)(7)(F) (b)(6) @ice.dhs.gov"; "Smith, Elicia (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3cdb964ab90d4310bd202c084b7e6097-Smith, Elic>"; "Velazquez, Ivonne (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e67b42d96043c688e84fa6cef42570-Velazquez,>"
Sent Date:	2018/03/13 21:54:58
Delivered Date:	2018/03/13 21:54:31
Message Flags:	Unsent

001041

(b)(6)

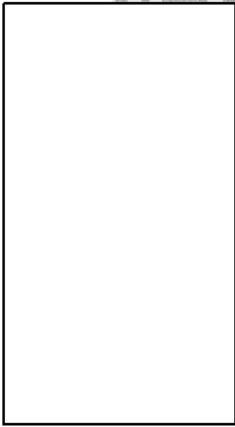
(b)(6)

(b)(6)

(b)(6)

(b)(6)





Year	Month	Day	Time	Location	Activity	Remarks
2019	1	1	08:00	...	...	...
2019	1	2	08:00	...	...	...
2019	1	3	08:00	...	...	...
2019	1	4	08:00	...	...	...
2019	1	5	08:00	...	...	...
2019	1	6	08:00	...	...	...
2019	1	7	08:00	...	...	...
2019	1	8	08:00	...	...	...
2019	1	9	08:00	...	...	...
2019	1	10	08:00	...	...	...
2019	1	11	08:00	...	...	...
2019	1	12	08:00	...	...	...
2019	1	13	08:00	...	...	...
2019	1	14	08:00	...	...	...
2019	1	15	08:00	...	...	...
2019	1	16	08:00	...	...	...
2019	1	17	08:00	...	...	...
2019	1	18	08:00	...	...	...
2019	1	19	08:00	...	...	...
2019	1	20	08:00	...	...	...
2019	1	21	08:00	...	...	...
2019	1	22	08:00	...	...	...
2019	1	23	08:00	...	...	...
2019	1	24	08:00	...	...	...
2019	1	25	08:00	...	...	...
2019	1	26	08:00	...	...	...
2019	1	27	08:00	...	...	...
2019	1	28	08:00	...	...	...
2019	1	29	08:00	...	...	...
2019	1	30	08:00	...	...	...
2019	1	31	08:00	...	...	...

(b)(6)



From:	De LA Cruz, James (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2EBA95D119AB4CD6A77B34616DC3366C-DE LA CRUZ,>
To:	(b)(6);(b)(7)(F)@CBP.DHS.GOV>"; (b)(6);(b)(7)(F)@CBP.DHS.GOV>"; (b)(6);(b)(7)(F)@ice.dhs.gov>"
CC:	(b)(6);(b)(7)(F)@cbp.dhs.gov"
Subject:	RE: USBP SBO UAC In Custody 72 HR Report (b)(6)
Date:	2018/06/09 11:33:00
Priority:	Normal
Type:	Note

I reached out to our Intakes team. They did a scan and saw quite a few cancelations and about 8 re-designations.

Cancelled placements would normally occur at the request of CBP or DHS, depending on the referring agency, for a number of things including family reunification\repatriation, age redetermination, etc.

I am getting you all a list.

James S. De La Cruz
DHHS/ACF/ORR/DCS
Senior Federal Field Specialist Supervisor
Office of Refugee Resettlement
Division of Children's Services
Mary E. Switzer Building, 5th Floor (Room: 5223)
330 C Street SW
Washington, DC 20201
Office: 202-690-8477
Cell: (b)(6)
Fax: 202-401-1022
<http://www.acf.hhs.gov/programs/orr/programs/ucs>

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Sender:	De LA Cruz, James (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2EBA95D119AB4CD6A77B34616DC3366C-DE LA CRUZ,>
Recipient:	(b)(6);(b)(7)(F)@CBP.DHS.GOV>"; (b)(6);(b)(7)(F)@CBP.DHS.GOV>"; (b)(6);(b)(7)(F)@ice.dhs.gov>"; (b)(6);(b)(7)(F)@cbp.dhs.gov"
Sent Date:	2018/06/09 11:33:58
Delivered Date:	2018/06/09 11:33:00

Referred to DHS

From: De LA Cruz, James (ACF) <James.DeLACruz@acf.hhs.gov>

Date: Wednesday, Nov 08, 2017, 4:36 PM

To: (b)(6);(b)(7)(F) <[\[REDACTED\]@ice.dhs.gov](mailto:[REDACTED]@ice.dhs.gov)>, Hogle, Olivia (ACF) <Olivia.Hogle@acf.hhs.gov>

Cc: ACF Orrducs_Intakes (ACF) <Orrducs_Intakes@acf.hhs.gov>

Subject: RE: Assistance with BC for Minor Previously Reunified by ORR

HI,

I checked some other records as well and do not see that a age redetermination was required. Let us know if you need further assistance including placement.

James S. De La Cruz

DHHS/ACF/ORR/DCS

Senior Federal Field Specialist Supervisor

Office of Refugee Resettlement

Division of Children's Services

Mary E. Switzer Building, 5th Floor (Room: 5223)

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Cell: (b)(6)

Fax: 202-401-1022

<http://www.acf.hhs.gov/programs/orr/programs/ucs>

Referred to DHS

Referred to DHS

From: Hogle, Olivia (ACF) [mailto:Olivia.Hogle@acf.hhs.gov]

Sent: Wednesday, November 8, 2017 3:24 PM

To: (b)(6);(b)(7)(F)

Cc: De LA Cruz, James (ACF); ACF Orrducs_Intakes (ACF)

Subject: RE: Assistance with BC for Minor Previously Reunified by ORR

Good evening (b)(6);(b)(7)(F)

I don't have access to a birth certificate for this minor in our database- due to the age of the case a request would need to be made for the document from the case file. However I see that our electronic records

from that time also indicate the date of birth as (b)(6) 1999.

Regards,

Olivia

Olivia Hogle, MSW

Lead Intakes Program Specialist

Office of Refugee Resettlement

Division of Unaccompanied Children Operations

330 C Street SW

Washington, DC 20447

Desk: (202) 260-0962

Cell: (202) (b)(6)

Fax: (202) 401-1022

Olivia.Hogle@acf.hhs.gov

**Please note: I telework on Fridays and can be reached by email or cell.*

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image001

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From:	De LA Cruz, James (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2EBA95D119AB4CD6A77B34616DC3366C-DE LA CRUZ,>
To:	(b)(6);(b)(7)(F) @ice.dhs.gov"
CC:	(b)(6);(b)(7)(F) @ice.dhs.gov"
Subject:	Adult in ORR Care
Date:	2018/02/28 21:54:00
Priority:	Normal
Type:	Note

Hello (b)(6);(b)(7)(F)

Please find this email as a request for assistance in moving an individual out of ORR care who we believe is really an adult. (Please review the jpg images that are attached.) This UAC is a risk to both adult and UAC I am told has he has threatened both UAC and staff. We are looking to move him to secure but we rather release him to DHS custody due to his forensic exam. I understand that we have been waiting several month to get this young man out of our care pending receipt of a clear BC from the consulates office. We have no received a response from the consulate.

I will be sending you a zip drive with more documents on the case and another. I thought we had several more cases to send but I received only two. (We have other cases of age redetermination but they are not stuck like this case and the other I am sending you.)

Based on the social media pictures that were recently discovered we also risk that this person who is in a non-secure program is a potential serious risk to the community. Please let me know if you have questions. After this email you will receive to other cases with a zip drive of documents for each individual that we believe is an adult.

Thank you in advance for your assistance.

1. (b)(6) A# (b)(6)
 - a. COO: India; DOB: (b)(6) 2000; LOS: 139 days
 - b. EP: 97.50%
 - c. Admitted to DUCO on 10/12/2017
 - d. Referred to ICE on 12/18/2017, 12/28/2017, and 2/26/2018
 - e. Still in care at Heartland International Children's Center

James S. De La Cruz
 DHHS/ACF/ORR/DCS
 Senior Federal Field Specialist Supervisor
 Office of Refugee Resettlement
 Division of Children's Services
 Mary E. Switzer Building, 5th Floor (Room: 5223)
 330 C Street SW

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Office: 202-690-8477

Cell: (b)(6)

Fax: 202-401-1022

<http://www.acf.hhs.gov/programs/orr/programs/ucs>

Sender:	De LA Cruz, James (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2EBA95D119AB4CD6A77B34616DC3366C-DE LA CRUZ,>
Recipient:	(b)(6);(b)(7)(F)@ice.dhs.gov"; (b)(6);(b)(7)(F)@ice.dhs.gov"
Sent Date:	2018/02/28 21:54:51
Delivered Date:	2018/02/28 21:54:00

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS**

Directive TECHNICAL AND PROCEDURAL UPDATE (TPU)

Age Determination Procedures for Custody Determination

Policy Number: ERO 11301.4

Issue Date: 12/11/2015

Superseded: Directive Technical and Procedural Update "Age Determination Procedures for Custody Determination," ERO 11301.3, dated Sept. 24, 2014.

Federal Enterprise Architecture Number: 301-112-002b

1. **Purpose/Background.** This TPU supersedes the Directive, "Age Determination Procedures for Custody Determination." This TPU updates policy and procedures for determining the age of individuals in ERO custody, including unaccompanied children (UC) to align with changes made by the Department of Health and Human Services (HHS).
- 1.2. Determining whether an individual in ERO custody is a minor or an adult often presents challenges, including one or more of the following:
 - 1) Lack of documentation;
 - 2) Contradictory or fraudulent identity documentation or statements;
 - 3) Physical appearance of the alien;
 - 4) Diminished capacity of the alien.
2. **Policy.** ERO determines the age of individuals in our custody consistent with HHS's Office of Refugee Resettlement (ORR), "ORR Policy Guide Children Entering the United States Unaccompanied, 1.6: Determining the Age of an Individual without Lawful Immigration Status," (August 28, 2015), attached.
 - 2.1. This directive applies to age-determination procedures only.. It does not alter other policies regarding the care, feeding, and well-being of ERO detainees.
3. **Definitions.** The following definitions apply for the purpose of this directive only.
 - 3.1. **Adult:** a person who is 18 years of age or older.
 - 3.2. **Juvenile/Minor:** a person who is under the age of 18 years.
 - 3.3. **Medical Payment Authorization Request:** a request for medical, dental, or mental health services payment.

3.4. Unaccompanied Child (UC): a child who:

- 1) Has no lawful immigration status in the United States;
- 2) Has not attained 18 years of age; and
- 3) With respect to whom:
 - There is no parent or legal guardian in the United States; or
 - No parent or legal guardian is available to provide care and physical custody.

4. Responsibilities.

- 4.1. The Custody Management Division (CMD)** is the Office of Primary Interest and manages, administers, and ensures compliance with this directive.
- 4.2. Field Office Directors (FODs)** establish local procedures that comply with the age-determination procedures in the HHS Instruction.
- 4.3. Field Office Juvenile Coordinators (FOJCs)** implement age-determination procedures established by their respective FODs, in coordination with IHSC Managed Care Branch personnel.
- 4.4. ICE Health Service Corps (IHSC)**, the medical authority for ICE, develops procedures to assist ERO in completing age determinations as provided in the HHS Instruction. IHSC also maintains a list of medical and dental practitioners fully qualified in age-determination techniques.
- 4.5. IHSC Managed Care Branch** provides assistance to ERO field staff by coordinating age-determination procedures for identifying minors.

5. Procedures.

- 5.1** FODs implement local procedures to determine the age of individuals in their custody in accordance with the ORR Policy Guide, following the steps outlined below. FOJCs evaluate the information collected and establish both that the documents are valid and that the individual in question is the rightful bearer of those documents (i.e., not an imposter).

Note:

- Information from each category is not required.

- Step 4 is used when age is indeterminable from steps 1 through 3, with arrangements coordinated by IHSC.
- Until the age determination is made, the individual in custody is entitled to all services provided to juveniles.

Officers follow the regulatory confidentiality protections afforded to asylum seekers and other protected classes when interacting with third parties, as provided in 8 C.F.R. §§ 208.6 and 1208.6.

- 1) Acceptable documentation:
 - a) Official government-issued documents, including birth certificates. If you question a document's authenticity or the alien possesses no documentation, verify the validity of the alien's claim by contacting government officials of the alien's home country.
 - b) Other objective documentation (e.g. baptismal certificates, school records, medical records) that indicate the alien's date of birth.
- 2) Statements by individuals (including the one whose age is in question) asserting personal knowledge of the alien's age, and who ERO concludes can credibly attest to the person's age.
 - a) Statements provided by the individual regarding his/her age or birth date. Generally, an alien's uncorroborated declaration regarding age is not used as the sole basis for an age determination.
 - b) Statements from the alien's parent(s) or legal guardian(s), if such persons can be identified and contacted.
 - c) Statements from other persons.
- 3) Information from another government agency (Federal, State, local, or foreign).
 - a) State/local arrest records.
 - b) Child welfare agency records.
 - c) Consular records.
- 4) Age assessment procedures (e.g., dental and skeletal [bone] maturity assessments using x-rays or other medical techniques identified by the

medical community as appropriate) may be used as a last resort, when no conclusive information is available.

- a) The examination will be performed by a medical professional experienced in age assessment method(s), taking into account the individual's ethnic and genetic background.
 - b) As no medical assessment method can determine an exact age, best practice relies on the estimated probability that an individual is 18 years or older.
- 5.2.** Request assistance from IHSC by initiating a "Medical Payment Authorization Request" through the IHSC Managed Care Branch. IHSC will coordinate with a licensed and credentialed forensic practitioner.
- 5.3.** IHSC will provide a written report to the case officer on the same day as the examination if all possible, detailing the forensic method used to determine age and the probability that the alien is a juvenile or an adult.
- 1) The examining doctor submits a written report indicating the probability percentage that the individual is a minor or an adult.
 - 2) The FOD or designee (SDDO or above) reviews the medical report.
 - 3) If the probability of an individual being 18 years old or older is 75 percent or greater, process the individual as an adult.
- 5.4.** The FOD will promptly evaluate new information regarding the age of the individual in ERO custody if presented by the individual or his/her legal representative.
- 6. Recordkeeping.** The FOJC maintains a record of results, especially radiographic (x-ray), in appropriate fields of the ENFORCE Custody Actions and Decisions Screen and maintains a copy in the alien's A-file. The FOJC documents all information relied upon to determine age (the information referenced, data systems used, individuals or agencies consulted, statements, and conclusions) in accordance with local procedure using Form I-213, Record of Inadmissible/Deportable Alien; Form G-166C, Memorandum of Investigation; or memorandum to file.
- 7. Authorities/References.**
- 7.1.** The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5074 (December 23, 2008); 8 U.S.C. § 1232 (b) (4).

7.2. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR), "ORR Policy Guide, 1.6 Determining the Age of an Individual without Lawful Immigration Status," (August 28, 2015); <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied-section-1#1.6>

8. **No Private Right Statement.** This directive is an internal policy of ERO. It is not intended to, does not and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil or criminal matter.

(b)(6);(b)(7)(F)

12/11/15

Date

(b)(6);(b)(7)(F)

**Assistant Director for Custody Management
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement**

OFFICE OF REFUGEE RESETTLEMENT

An Office of the Administration for Children & Families

1.6 Determining the Age of an Individual without Lawful Immigration Status

The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) instructs HHS to devise age determination procedures for individuals without lawful immigration status in consultation with the U.S. Department of Homeland Security (DHS). *To carry out the TVPRA provision, HHS and DHS worked jointly to develop the age determination policies and procedures in this section.*

Typically, DHS is the agency that apprehends individuals without lawful immigration status, including unaccompanied children (UC). , while HHS is the agency responsible for the care and custody of UC transferred to its care. HHS authority to provide care and custody applies only to individuals who have not attained 18 years of age.

Each agency acknowledges the challenges in determining the age of individuals in custody. These challenges include, but are not limited to:

- Unavailable documentation;
- Contradictory or fraudulent identity documentation and/or statements;
- Physical appearance of the individual; and
- Diminished capacity of the individual.

The TVPRA requires the age determination procedures, at a minimum, to take into account multiple forms of evidence. Accordingly, under these procedures, each case must be evaluated carefully based on the totality of all available evidence, including the statement of the individual in question.

1.6.1 Unaccompanied Children in HHS Custody

HHS may make age determinations of UC when they are in HHS custody on a reasonable suspicion that a child in HHS custody is 18 years or older.

In the event there is conflicting evidence regarding the age of an unaccompanied child in HHS custody, the HHS funded care provider case worker shall immediately notify the HHS Federal Field Specialist (FFS). The FFS will make the age determination based on his/her review of the multiple forms of evidence collected by the care provider. Until the age determination is made, the unaccompanied child is entitled to all services provided to UC in HHS care and custody.

There may be occasions when an unaccompanied child's age is questioned at the time of admission to an HHS funded care provider facility during the intakes process. In those cases, the case

manager does not complete the intakes process, but consults with the HHS FFS to make the age determination.

1.6.2 Instructions

Case managers should seek the following as evidence when conducting age determinations. Information from each category is not required.

Documentation:

- Official government-issued documents, including birth certificates. If the unaccompanied child in question is not in possession of original documentation, or if the authenticity of the original documentation is in question, government officials of the unaccompanied child's home country must be consulted in order to verify the validity of the documentation.
- Other reliable records (e.g., baptismal certificates, school records, medical records) that indicate the unaccompanied child's date of birth.

Statements by individuals (including the unaccompanied child) determined to have personal knowledge of the unaccompanied child's age, and whom HHS concludes can credibly attest to the age of the unaccompanied child:

- Statements provided by the unaccompanied child regarding his/her age or birth date. (Generally, an unaccompanied child's uncorroborated declaration regarding age is not used as the sole basis for an age determination.)
- Statements from the unaccompanied child's parent(s) or legal guardian(s), if such persons can be identified and contacted.
- Statements from other persons.
- Information from another government agency (Federal, State, local or foreign):
- State/local arrest records.
- Child welfare agency records.

Medical age assessment procedures (i.e., dental and skeletal [bone] maturity assessments using radiographs) may be used to determine age, but only if other information is inconclusive.

Medical Assessments:

- A medical professional experienced in age assessment method(s) must perform the examination, taking into account the individual's ethnic and genetic background.
- As no medical assessment method can determine an exact age, best practice relies on the estimated probability that an individual is 18 or older. The examining doctor must submit a written report indicating the probability percentage that the individual is a minor or an adult.

ORR Response:

- The FFS supervisor must review the determination regarding the age submitted by the examining doctor.
- If an individual's estimated probability of being 18 or older is 75 percent or greater, ORR will refer the individual to DHS. This applies to all medical methods and approaches identified by the medical community as appropriate methods for assessing age.
- The FFS compiles all pertinent information (e.g., the information referenced, individuals or agencies consulted, statements and conclusions) and documents it in a memorandum for review and approval by the FFS Supervisor.
- The FFS then will forward the memo to the care provider facility case manager to be included in the unaccompanied child's case file and to the ICE Detention and Removal Office (DRO) Field Office Juvenile Coordinator (FOJC) for inclusion in the unaccompanied child's A-file.

At any time, an unaccompanied child in ORR care or his/her designated legal representative may present new information or evidence that he/she is 18 or older for re-evaluation of an age determination. New information will be reviewed and evaluated by the FFS and if necessary, the FFS Supervisor, in a timely manner and shared with the DRO FOJC to determine if current placement is appropriate. If the new information or evidence indicates a presumed UC is actually an adult, then HHS will coordinate with the assigned FOJC to ensure an immediate transfer of custody to an adult DRO facility.

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Footnotes

1. Other circumstances which would result in a longer stay, such as the child's country of origin is in a state of emergency, indicating that the child will likely not be repatriated for an extended period of time.

Last Reviewed: October 20, 2015